

PART A—GENERAL

CHAPTER 31—GENERAL

SUBCHAPTER I—OVERSIGHT AND REGULATION
OF PUBLIC BUILDINGS

Sec.

3101. Public buildings under control of Administrator of General Services.
 3102. Naming or designating buildings.
 3103. Admission of guide dogs or other service animals accompanying individuals with disabilities.
 3104. Furniture for new buildings.
 3105. Buildings not to be draped in mourning.

SUBCHAPTER II—ACQUIRING LAND

3111. Approval of sufficiency of title prior to acquisition.
 3112. Federal jurisdiction.
 3113. Acquisition by condemnation.
 3114. Declaration of taking.
 3115. Irrevocable commitment of Federal Government to pay ultimate award when fixed.
 3116. Interest as part of just compensation.
 3117. Exclusion of certain property by stipulation of Attorney General.
 3118. Right of taking as addition to existing rights.

SUBCHAPTER III—BONDS

3131. Bonds of contractors of public buildings or works.
 3132. Alternatives to payment bonds provided by Federal Acquisition Regulation.
 3133. Rights of persons furnishing labor or material.
 3134. Waivers for certain contracts.

SUBCHAPTER IV—WAGE RATE REQUIREMENTS

3141. Definitions.
 3142. Rate of wages for laborers and mechanics.
 3143. Termination of work on failure to pay agreed wages.
 3144. Authority of Comptroller General to pay wages and list contractors violating contracts.
 3145. Regulations governing contractors and subcontractors.
 3146. Effect on other federal laws.
 3147. Suspension of this subchapter during a national emergency.
 3148. Application of this subchapter to certain contracts.

SUBCHAPTER V—VOLUNTEER SERVICES

3161. Purpose.
 3162. Waiver for individuals who perform volunteer services.

SUBCHAPTER VI—MISCELLANEOUS

3171. Contract authority when appropriation is for less than full amount.
 3172. Extension of state workers' compensation laws to buildings, works, and property of the Federal Government.
 3173. Working capital fund for blueprinting, photostating, and duplicating services in General Services Administration.¹
 3174. Operation of public utility communications services serving governmental activities.
 3175. Acceptance of gifts of property.
 3176. Administrator of General Services to furnish services in continental United States to international bodies.
 3177. Use of photovoltaic energy in public buildings.²

¹Section catchline amended by Pub. L. 111-8 without corresponding amendment of chapter analysis.

²Editorially supplied. Section 3177 added by Pub. L. 109-58 without corresponding amendment of chapter analysis.

Sec.

SUBCHAPTER I—OVERSIGHT AND
REGULATION OF PUBLIC BUILDINGS

§ 3101. Public buildings under control of Administrator of General Services

All public buildings outside of the District of Columbia and outside of military reservations purchased or erected out of any appropriation under the control of the Administrator of General Services, and the sites of the public buildings, are under the exclusive jurisdiction and control, and in the custody of, the Administrator. The Administrator may take possession of the buildings and assign and reassign rooms in the buildings to federal officials, clerks, and employees that the Administrator believes should be furnished with offices or rooms in the buildings.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1143.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|-------------------------------------------------------------------------|
| 3101 | 40:285. | July 1, 1898, ch. 546, § 1 (6th complete par. on p. 614), 30 Stat. 614. |

The word “subtreasuries” in the 6th complete paragraph on p. 614 of section 1 of the Act of July 1, 1898 (ch. 546, 30 Stat. 614), is omitted because section 1 (words in par. under heading “Independent Treasury”) of the Act of May 29, 1914 (ch. 214, 41 Stat. 654) discontinued subtreasuries. The word “post-offices” in section 1 is omitted because section 1 of Executive Order No. 6166 (eff. June 10, 1933) transferred administration of post office buildings to the Post Office Department. The words “courthouses, customhouses, appraiser's stores, barge offices, and other” are omitted as unnecessary. The words “or are in course of construction” are omitted as obsolete. The words “Administrator of General Services” are substituted for “Treasury Department” and “Secretary of the Treasury” [subsequently changed to “Federal Works Agency” and “Federal Works Administrator” because of sections 301 and 303, respectively, of Reorganization Plan No. I of 1939 (eff. July 1, 1939, 53 Stat. 1426, 1427)] because of section 103(a) of the Federal Property and Administrative Services Act of 1949 (ch. 288, 63 Stat. 380), which is restated as section 303(c) [303(b)] of the revised title.

PROHIBITION OF CIGARETTE SALES TO MINORS IN
FEDERAL BUILDINGS AND LANDS

Pub. L. 104-52, title VI, § 636, Nov. 19, 1995, 109 Stat. 507, known as the “Prohibition of Cigarette Sales to Minors in Federal Buildings and Lands Act”, required the Administrator of General Services and the head of each Federal agency to promulgate regulations, to be reported to Congress, prohibiting the sale of tobacco products in vending machines or distribution of free samples of tobacco products located in or around any Federal building under the jurisdiction of the Administrator or agency head, and provided that the appropriate congressional committees would promulgate regulations prohibiting tobacco sales in vending machines in certain congressional buildings.

§ 3102. Naming or designating buildings

The Administrator of General Services may name or otherwise designate any building under the custody and control of the General Services Administration, regardless of whether it was previously named by statute.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1143.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|-----------------------------------------------------------------------------------------------------|
| 3102 | 40:298d. | June 16, 1949, ch. 218, title IV, § 410, 63 Stat. 200; Pub. L. 85-542, July 18, 1958, 72 Stat. 399. |

The words “notwithstanding any other provision of law” and “rename” are omitted as unnecessary.

§ 3103. Admission of guide dogs or other service animals accompanying individuals with disabilities

(a) IN GENERAL.—Guide dogs or other service animals accompanying individuals with disabilities and especially trained and educated for that purpose shall be admitted to any building or other property owned or controlled by the Federal Government on the same terms and conditions, and subject to the same regulations, as generally govern the admission of the public to the property. The animals are not permitted to run free or roam in a building or on the property and must be in guiding harness or on leash and under the control of the individual at all times while in a building or on the property.

(b) REGULATIONS.—The head of each department or other agency of the Government may prescribe regulations the individual considers necessary in the public interest to carry out this section as it applies to any building or other property subject to the individual’s jurisdiction.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1143.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|---------------------------------------|
| 3103(a) | 40:291 (1st sentence). | Dec. 10, 1941, ch. 563, 55 Stat. 796. |
| 3103(b) | 40:291 (last sentence). | |

In subsection (a), the words “Seeing-eye dogs or other” are omitted as unnecessary. The words “or other service animals” are added, and the words “individuals with disabilities” are substituted for “blind masters”, because of section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) and Part 39 of Title 28 of the Code of Federal Regulations, which expanded the coverage of the source provision to all service animals and to all individuals with disabilities.

§ 3104. Furniture for new buildings

Furniture for all new public buildings shall be acquired in accordance with plans and specifications approved by the Administrator of General Services.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1143.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|----------------------------------------------------------------------------|
| 3104 | 40:283. | May 27, 1908, ch. 200 1 [sic] (7th complete par. on p. 327), 35 Stat. 327. |

The words “Administrator of General Services” are substituted for “Supervising Architect of the Treasury” [subsequently changed to “Secretary of the Treasury” because of section 1 of Executive Order No. 6166 (eff. June 10, 1933) and to “Federal Works Administrator” because of section 301 of Reorganization Plan

No. I of 1939 (eff. July 1, 1939, 53 Stat. 1426)] because of section 103(a) of the Federal Property and Administrative Services Act of 1949 (ch. 288, 63 Stat. 380), which is restated as section 303(c) [303(b)] of the revised title.

§ 3105. Buildings not to be draped in mourning

No building owned, or used for public purposes, by the Federal Government shall be draped in mourning nor may public money be used for that purpose.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1143.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|-------------------------------------------|
| 3105 | 40:286. | Mar. 3, 1893, ch. 211, § 3, 27 Stat. 715. |

The words “On and after March 3, 1893” are omitted as obsolete.

SUBCHAPTER II—ACQUIRING LAND

§ 3111. Approval of sufficiency of title prior to acquisition

(a) APPROVAL OF ATTORNEY GENERAL REQUIRED.—Public money may not be expended to purchase land or any interest in land unless the Attorney General gives prior written approval of the sufficiency of the title to the land for the purpose for which the Federal Government is acquiring the property.

(b) DELEGATION.—

(1) IN GENERAL.—The Attorney General may delegate the responsibility under this section to other departments and agencies of the Government, subject to general supervision by the Attorney General and in accordance with regulations the Attorney General prescribes.

(2) REQUEST FOR OPINION OF ATTORNEY GENERAL.—A department or agency of the Government that has been delegated the responsibility to approve land titles under this section may request the Attorney General to render an opinion as to the validity of the title to any real property or interest in the property, or may request the advice or assistance of the Attorney General in connection with determinations as to the sufficiency of titles.

(c) PAYMENT OF EXPENSES FOR PROCURING CERTIFICATES OF TITLE.—Except where otherwise authorized by law or provided by contract, the expenses of procuring certificates of titles or other evidences of title as the Attorney General may require may be paid out of the appropriations for the acquisition of land or out of the appropriations made for the contingencies of the acquiring department or agency of the Government.

(d) NONAPPLICATION.—This section does not affect any provision of law in effect on September 1, 1970, that is applicable to the acquisition of land or interests in land by the Tennessee Valley Authority.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1144.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3111(a) | 40:255 (1st par.). | R.S. §355 (1st–5th pars.); June 28, 1930, ch. 710, 46 Stat. 828; Feb. 1, 1940, ch. 18, 54 Stat. 19; Oct. 9, 1940, ch. 793, 54 Stat. 1083; Pub. L. 91–393, §1, Sept. 1, 1970, 84 Stat. 835. |
| 3111(b) | 40:255 (2d, 3d pars.). | |
| 3111(c) | 40:255 (4th par.). | |
| 3111(d) | 40:255 (5th par.). | |

In subsection (d), the words “in any manner” are omitted as unnecessary.

§ 3112. Federal jurisdiction

(a) EXCLUSIVE JURISDICTION NOT REQUIRED.—It is not required that the Federal Government obtain exclusive jurisdiction in the United States over land or an interest in land it acquires.

(b) ACQUISITION AND ACCEPTANCE OF JURISDICTION.—When the head of a department, agency, or independent establishment of the Government, or other authorized officer of the department, agency, or independent establishment, considers it desirable, that individual may accept or secure, from the State in which land or an interest in land that is under the immediate jurisdiction, custody, or control of the individual is situated, consent to, or cession of, any jurisdiction over the land or interest not previously obtained. The individual shall indicate acceptance of jurisdiction on behalf of the Government by filing a notice of acceptance with the Governor of the State or in another manner prescribed by the laws of the State where the land is situated.

(c) PRESUMPTION.—It is conclusively presumed that jurisdiction has not been accepted until the Government accepts jurisdiction over land as provided in this section.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1144.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------|
| 3112(a) | 40:255 (last par. 1st sentence words before semicolon). | R.S. §355 (last par.); June 28, 1930, ch. 710, 46 Stat. 828; Feb. 1, 1940, ch. 18, 54 Stat. 19; Oct. 9, 1940, ch. 793, 54 Stat. 1083. |
| 3112(b) | 40:255 (last par. 1st sentence words after semicolon). | |
| 3112(c) | 40:255 (last par. last sentence). | |

Subsection (a) is substituted for 40:255 (last par. 1st sentence words before semicolon) to eliminate unnecessary words.

In subsection (b), the words “exclusive or partial” are omitted as unnecessary.

§ 3113. Acquisition by condemnation

An officer of the Federal Government authorized to acquire real estate for the erection of a public building or for other public uses may acquire the real estate for the Government by condemnation, under judicial process, when the officer believes that it is necessary or advantageous to the Government to do so. The Attorney General, on application of the officer, shall have condemnation proceedings begun within 30 days from receipt of the application at the Department of Justice.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1144.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|------------------------------------------------------------------------------------|
| 3113 | 40:257. | Aug. 1, 1888, ch. 728, §1, 25 Stat. 357; June 25, 1948, ch. 646, §6, 62 Stat. 986. |

The words “the Secretary of the Treasury or any other” are omitted as unnecessary. The reference to section 258 is omitted because 40:258 is superseded by rule 71A of the Federal Rules of Civil Procedure (28 App.: U.S.C.).

§ 3114. Declaration of taking

(a) FILING AND CONTENT.—In any proceeding in any court of the United States outside of the District of Columbia brought by and in the name of the United States and under the authority of the Federal Government to acquire land, or an easement or right of way in land, for the public use, the petitioner may file, with the petition or at any time before judgment, a declaration of taking signed by the authority empowered by law to acquire the land described in the petition, declaring that the land is taken for the use of the Government. The declaration of taking shall contain or have annexed to it—

(1) a statement of the authority under which, and the public use for which, the land is taken;

(2) a description of the land taken that is sufficient to identify the land;

(3) a statement of the estate or interest in the land taken for public use;

(4) a plan showing the land taken; and

(5) a statement of the amount of money estimated by the acquiring authority to be just compensation for the land taken.

(b) VESTING OF TITLE.—On filing the declaration of taking and depositing in the court, to the use of the persons entitled to the compensation, the amount of the estimated compensation stated in the declaration—

(1) title to the estate or interest specified in the declaration vests in the Government;

(2) the land is condemned and taken for the use of the Government; and

(3) the right to just compensation for the land vests in the persons entitled to the compensation.

(c) COMPENSATION.—

(1) DETERMINATION AND AWARD.—Compensation shall be determined and awarded in the proceeding and established by judgment. The judgment shall include interest, in accordance with section 3116 of this title, on the amount finally awarded as the value of the property as of the date of taking and shall be awarded from that date to the date of payment. Interest shall not be allowed on as much of the compensation as has been paid into the court. Amounts paid into the court shall not be charged with commissions or poundage.

(2) ORDER TO PAY.—On application of the parties in interest, the court may order that any part of the money deposited in the court be paid immediately for or on account of the compensation to be awarded in the proceeding.

(3) DEFICIENCY JUDGMENT.—If the compensation finally awarded is more than the amount

of money received by any person entitled to compensation, the court shall enter judgment against the Government for the amount of the deficiency.

(d) **AUTHORITY OF COURT.**—On the filing of a declaration of taking, the court—

(1) may fix the time within which, and the terms on which, the parties in possession shall be required to surrender possession to the petitioner; and

(2) may make just and equitable orders in respect of encumbrances, liens, rents, taxes, assessments, insurance, and other charges.

(e) **VESTING NOT PREVENTED OR DELAYED.**—An appeal or a bond or undertaking given in a proceeding does not prevent or delay the vesting of title to land in the Government.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1145.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------|
| 3114(a) | 40:258a (1st par.). | Feb. 26, 1931, ch. 307, §1, 46 Stat. 1421; Pub. L. 99–656, §1(1), Nov. 14, 1986, 100 Stat. 3668. |
| 3114(b) | 40:258a (2d par. 1st sentence words before 1st semi-colon). | |
| 3114(c)(1) | 40:258a (2d par. 1st sentence words after 1st semi-colon, last sentence). | |
| 3114(c)(2), (3). | 40:258a (3d par.). | |
| 3114(d) | 40:258a (last par.). | |
| 3114(e) | 40:258b. | Feb. 26, 1931, ch. 307, §2, 46 Stat. 1422. |

In subsection (a), before clause (1), the words “which has been or may be” are omitted as unnecessary.

In subsection (b)(1), the words “said lands in fee simple absolute, or such less” are omitted as unnecessary.

In subsection (b)(2), the words “deemed to be” are omitted as unnecessary.

§ 3115. Irrevocable commitment of Federal Government to pay ultimate award when fixed

(a) **REQUIREMENT FOR IRREVOCABLE COMMITMENT.**—Action under section 3114 of this title irrevocably committing the Federal Government to the payment of the ultimate award shall not be taken unless the head of the executive department or agency or bureau of the Government empowered to acquire the land believes that the ultimate award probably will be within any limits Congress prescribes on the price to be paid.

(b) **AUTHORIZED PURPOSES OF EXPENDITURES AFTER IRREVOCABLE COMMITMENT MADE.**—When the Government has taken or may take title to real property during a condemnation proceeding and in advance of final judgment in the proceeding and has become irrevocably committed to pay the amount ultimately to be awarded as compensation, and the Attorney General believes that title to the property has been vested in the Government or that all persons having an interest in the property have been made parties to the proceeding and will be bound by the final judgment, the Government may expend amounts appropriated for that purpose to demolish existing structures on the property and to erect public buildings or public works on the property.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1146.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|---------------------------------------------------------------------------------------------|
| 3115(a) | 40:258c. | Feb. 26, 1931, ch. 307, §3, 46 Stat. 1422. |
| 3115(b) | 40:258e. | Feb. 26, 1931, ch. 307, §5, 46 Stat. 1422; Pub. L. 91–393, §4, Sept. 1, 1970, 84 Stat. 835. |

In subsection (b), the words “possession of” are omitted as unnecessary.

§ 3116. Interest as part of just compensation

(a) **CALCULATION.**—The district court shall calculate interest required to be paid under this subchapter as follows:

(1) **PERIOD OF NOT MORE THAN ONE YEAR.**—Where the period for which interest is owed is not more than one year, interest shall be calculated from the date of taking at an annual rate equal to the weekly average one-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week preceding the date of taking.

(2) **PERIOD OF MORE THAN ONE YEAR.**—Where the period for which interest is owed is more than one year, interest for the first year shall be calculated in accordance with paragraph (1) and interest for each additional year shall be calculated on the amount by which the award of compensation is more than the deposit referred to in section 3114 of this title, plus accrued interest, at an annual rate equal to the weekly average one-year constant maturity Treasury yield, as published by the Board of Governors of the Federal Reserve System, for the calendar week preceding the beginning of each additional year.

(b) **DISTRIBUTION OF NOTICE OF RATES.**—The Director of the Administrative Office of the United States Courts shall distribute to all federal courts notice of the rates described in paragraphs (1) and (2) of subsection (a).

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1146.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3116(a) | 40:258e–1 (less last sentence). | Feb. 26, 1931, ch. 307, §6, as added Pub. L. 99–656, §1(2), Nov. 14, 1986, 100 Stat. 3668; Pub. L. 106–554, §1(a)(7) [§307(a)], Dec. 21, 2000, 114 Stat. 2763A–635. |
| 3116(b) | 40:258e–1 (last sentence). | |

§ 3117. Exclusion of certain property by stipulation of Attorney General

In any condemnation proceeding brought by or on behalf of the Federal Government, the Attorney General may stipulate or agree on behalf of the Government to exclude any part of the property, or any interest in the property, taken by or on behalf of the Government by a declaration of taking or otherwise.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1147.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|---------------------------------------|
| 3117 | 40:258f. | Oct. 21, 1942, ch. 618, 56 Stat. 797. |

The words “that may have been, or may be” are omitted as unnecessary.

§ 3118. Right of taking as addition to existing rights

The right to take possession and title in advance of final judgment in condemnation proceedings as provided by section 3114 of this title is in addition to any right, power, or authority conferred by the laws of the United States or of a State, territory, or possession of the United States under which the proceeding may be conducted, and does not abrogate, limit, or modify that right, power, or authority.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1147.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|---------------------------------------------|
| 3118 | 40:258d. | Feb. 26, 1931, ch. 307, § 4, 46 Stat. 1422. |

The words “State, territory, or possession of the United States” are substituted for “State or Territory” for consistency in the revised title and with other titles of the United States Code.

SUBCHAPTER III—BONDS

§ 3131. Bonds of contractors of public buildings or works

(a) DEFINITION.—In this subchapter, the term “contractor” means a person awarded a contract described in subsection (b).

(b) TYPE OF BONDS REQUIRED.—Before any contract of more than \$100,000 is awarded for the construction, alteration, or repair of any public building or public work of the Federal Government, a person must furnish to the Government the following bonds, which become binding when the contract is awarded:

(1) PERFORMANCE BOND.—A performance bond with a surety satisfactory to the officer awarding the contract, and in an amount the officer considers adequate, for the protection of the Government.

(2) PAYMENT BOND.—A payment bond with a surety satisfactory to the officer for the protection of all persons supplying labor and material in carrying out the work provided for in the contract for the use of each person. The amount of the payment bond shall equal the total amount payable by the terms of the contract unless the officer awarding the contract determines, in a writing supported by specific findings, that a payment bond in that amount is impractical, in which case the contracting officer shall set the amount of the payment bond. The amount of the payment bond shall not be less than the amount of the performance bond.

(c) COVERAGE FOR TAXES IN PERFORMANCE BOND.—

(1) IN GENERAL.—Every performance bond required under this section specifically shall

provide coverage for taxes the Government imposes which are collected, deducted, or withheld from wages the contractor pays in carrying out the contract with respect to which the bond is furnished.

(2) NOTICE.—The Government shall give the surety on the bond written notice, with respect to any unpaid taxes attributable to any period, within 90 days after the date when the contractor files a return for the period, except that notice must be given no later than 180 days from the date when a return for the period was required to be filed under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.).

(3) CIVIL ACTION.—The Government may not bring a civil action on the bond for the taxes—

(A) unless notice is given as provided in this subsection; and

(B) more than one year after the day on which notice is given.

(d) WAIVER OF BONDS FOR CONTRACTS PERFORMED IN FOREIGN COUNTRIES.—A contracting officer may waive the requirement of a performance bond and payment bond for work under a contract that is to be performed in a foreign country if the officer finds that it is impracticable for the contractor to furnish the bonds.

(e) AUTHORITY TO REQUIRE ADDITIONAL BONDS.—This section does not limit the authority of a contracting officer to require a performance bond or other security in addition to those, or in cases other than the cases, specified in subsection (b).

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1147; Pub. L. 109–284, § 6(8), Sept. 27, 2006, 120 Stat. 1213.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|-------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3131(a) | 40:270a(a) (words before cl. (1) related to definition). | Aug. 24, 1935, ch. 642, § 1(a)–(c), 49 Stat. 793; Pub. L. 95–585, Nov. 2, 1978, 92 Stat. 2484; Pub. L. 103–355, title IV, § 4104(b)(1)(B), Oct. 13, 1994, 108 Stat. 3342; Pub. L. 106–49, § 2(a), Aug. 17, 1999, 113 Stat. 231. |
| | 40:270d. | Aug. 24, 1935, ch. 642, § 4, 49 Stat. 794. |
| 3131(b) | 40:270a(a) (words before cl. (1) related to furnishing bond), (1), (2). | |
| | 40:270d–1. | Aug. 24, 1935, ch. 642, § 5, as added Pub. L. 103–355, title IV, § 4104(b)(1)(A), Oct. 13, 1994, 108 Stat. 3341. |
| 3131(c) | 40:270a(d). | Aug. 24, 1935, ch. 642, § 1(d), as added Pub. L. 89–719, title I, § 105(b), Nov. 2, 1966, 80 Stat. 1139. |
| 3131(d) | 40:270a(b). | |
| 3131(e) | 40:270a(c). | |

In subsection (a), the text of 40:270d is omitted because of 1:1.

In subsections (b) and (c), the words “or sureties” are omitted because of 1:1.

REFERENCES IN TEXT

The Internal Revenue Code of 1986, referred to in subsec. (c)(2), is classified to Title 26, Internal Revenue Code.

AMENDMENTS

2006—Subsec. (e). Pub. L. 109–284 substituted “To” for “to” in heading.

§ 3132. Alternatives to payment bonds provided by Federal Acquisition Regulation

(a) IN GENERAL.—The Federal Acquisition Regulation shall provide alternatives to payment bonds as payment protections for suppliers of labor and materials under contracts referred to in section 3131(a) of this title that are more than \$25,000 and not more than \$100,000.

(b) RESPONSIBILITIES OF CONTRACTING OFFICER.—The contracting officer for a contract shall—

(1) select, from among the payment protections provided for in the Federal Acquisition Regulation pursuant to subsection (a), one or more payment protections which the offeror awarded the contract is to submit to the Federal Government for the protection of suppliers of labor and materials for the contract; and

(2) specify in the solicitation of offers for the contract the payment protections selected.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1148.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|-------------------------------------------------------------------------|
| 3132 | 40:270a note. | Pub. L. 103–355, title IV, § 4104(b)(2), Oct. 13, 1994, 108 Stat. 3342. |

§ 3133. Rights of persons furnishing labor or material

(a) RIGHT OF PERSON FURNISHING LABOR OR MATERIAL TO COPY OF BOND.—The department secretary or agency head of the contracting agency shall furnish a certified copy of a payment bond and the contract for which it was given to any person applying for a copy who submits an affidavit that the person has supplied labor or material for work described in the contract and payment for the work has not been made or that the person is being sued on the bond. The copy is prima facie evidence of the contents, execution, and delivery of the original. Applicants shall pay any fees the department secretary or agency head of the contracting agency fixes to cover the cost of preparing the certified copy.

(b) RIGHT TO BRING A CIVIL ACTION.—

(1) IN GENERAL.—Every person that has furnished labor or material in carrying out work provided for in a contract for which a payment bond is furnished under section 3131 of this title and that has not been paid in full within 90 days after the day on which the person did or performed the last of the labor or furnished or supplied the material for which the claim is made may bring a civil action on the payment bond for the amount unpaid at the time the civil action is brought and may prosecute the action to final execution and judgment for the amount due.

(2) PERSON HAVING DIRECT CONTRACTUAL RELATIONSHIP WITH A SUBCONTRACTOR.—A person having a direct contractual relationship with a subcontractor but no contractual relationship, express or implied, with the contractor furnishing the payment bond may bring a civil action on the payment bond on giving written notice to the contractor within 90 days from the date on which the person did or performed

the last of the labor or furnished or supplied the last of the material for which the claim is made. The action must state with substantial accuracy the amount claimed and the name of the party to whom the material was furnished or supplied or for whom the labor was done or performed. The notice shall be served—

(A) by any means that provides written, third-party verification of delivery to the contractor at any place the contractor maintains an office or conducts business or at the contractor's residence; or

(B) in any manner in which the United States marshal of the district in which the public improvement is situated by law may serve summons.

(3) VENUE.—A civil action brought under this subsection must be brought—

(A) in the name of the United States for the use of the person bringing the action; and

(B) in the United States District Court for any district in which the contract was to be performed and executed, regardless of the amount in controversy.

(4) PERIOD IN WHICH ACTION MUST BE BROUGHT.—An action brought under this subsection must be brought no later than one year after the day on which the last of the labor was performed or material was supplied by the person bringing the action.

(5) LIABILITY OF FEDERAL GOVERNMENT.—The Government is not liable for the payment of any costs or expenses of any civil action brought under this subsection.

(c) WAIVER OF RIGHT TO CIVIL ACTION.—A waiver of the right to bring a civil action on a payment bond required under this subchapter is void unless the waiver is—

(1) in writing;

(2) signed by the person whose right is waived; and

(3) executed after the person whose right is waived has furnished labor or material for use in the performance of the contract.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1148; Pub. L. 109–284, § 6(9), (10), Sept. 27, 2006, 120 Stat. 1213.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|------------------|--------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3133(a) | 40:270c. | Aug. 24, 1935, ch. 642, § 3, 49 Stat. 794; Pub. L. 86–135, § 2, Aug. 4, 1959, 73 Stat. 279; Pub. L. 98–269, Apr. 18, 1984, 98 Stat. 156. |
| 3133(b)(1), (2). | 40:270b(a). | Aug. 24, 1935, ch. 642, § 2(a), (b), 49 Stat. 794; Pub. L. 86–135, § 1, Aug. 4, 1959, 73 Stat. 279; Pub. L. 106–49, § 2(b), Aug. 17, 1999, 113 Stat. 231. |
| 3133(b)(3)–(5). | 40:270b(b). | |
| 3133(c) | 40:270b(c). | Aug. 24, 1935, ch. 642, § 2(c), as added Pub. L. 106–49, § 2(c), Aug. 17, 1999, 113 Stat. 231. |

In subsection (b)(1), the words “may bring a civil action” are substituted for “shall have the right to sue” for consistency in the revised title and with other titles of the United States Code. The words “or sums” are omitted because of 1:1.

In subsection (b)(2), the words “to the contractor at any place he maintains an office or conducts his business, or his residence, or in any manner in which the United States marshal of the district in which the public improvement is situated is authorized by law to serve summons” are restated to reflect the probable intent of Congress. See H. Rept. 106-277, Part 1, 106th Cong., 1st Sess., pp. 4, 7.

In subsection (c), the words “bring a civil action” are substituted for “sue” for consistency in the revised title and with other titles of the United States Code.

AMENDMENTS

2006—Subsec. (b). Pub. L. 109-284, §6(9), substituted “To” for “to” in heading.

Subsec. (c). Pub. L. 109-284, §6(10), inserted heading.

§ 3134. Waivers for certain contracts

(a) **MILITARY.**—The Secretary of the Army, the Secretary of the Navy, the Secretary of the Air Force, or the Secretary of Transportation may waive this subchapter with respect to cost-plus-a-fixed fee and other cost-type contracts for the construction, alteration, or repair of any public building or public work of the Federal Government and with respect to contracts for manufacturing, producing, furnishing, constructing, altering, repairing, processing, or assembling vessels, aircraft, munitions, materiel, or supplies for the Army, Navy, Air Force, or Coast Guard, respectively, regardless of the terms of the contracts as to payment or title.

(b) **TRANSPORTATION.**—The Secretary of Transportation may waive this subchapter with respect to contracts for the construction, alteration, or repair of vessels when the contract is made under sections 1535 and 1536 of title 31, subtitle V of title 46, or the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1735 et seq.), regardless of the terms of the contracts as to payment or title.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1149; Pub. L. 109-304, § 17(g)(2), Oct. 6, 2006, 120 Stat. 1709.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|
| 3134(a) | 40:270e. | Apr. 29, 1941, ch. 81, §1, 55 Stat. 147; June 3, 1955, ch. 129, 69 Stat. 83. |
| 3134(b) | 40:270f. | Apr. 29, 1941, ch. 81, §2, as added Pub. L. 91-469, §39, Oct. 21, 1970, 84 Stat. 1036; Pub. L. 97-31, §12(12), Aug. 6, 1981, 95 Stat. 154. |

In subsection (a), the words “Secretary of Transportation” are substituted for “Secretary of Commerce” because of 49:108. The words “the manufacturing, producing, furnishing, construction, alteration, repair, processing, or assembling of” and “of any kind or nature” are omitted as unnecessary.

In subsection (b), the words “of any kind or nature” are omitted as unnecessary. The words “sections 1535 and 1536 of title 31” are substituted for “the Act of June 30, 1932 (47 Stat. 382, 417-418), as amended [31 U.S.C. 686, 686b]” because of section 4(b) of the Act of September 13, 1982 (Public Law 97-258, 96 Stat. 1067), the first section of which enacted Title 31, United States Code.

REFERENCES IN TEXT

The Merchant Ship Sales Act of 1946, referred to in subsec. (b), is act Mar. 8, 1946, ch. 82, 60 Stat. 41, as amended, which is classified to sections 1735 to 1746 of Title 50, Appendix, War and National Defense. For com-

plete classification of this Act to the Code, see Short Title note set out under section 1735 of Title 50, Appendix, and Tables.

AMENDMENTS

2006—Subsec. (b). Pub. L. 109-304 substituted “subtitle V of title 46” for “the Merchant Marine Act, 1936 (46 App. U.S.C. 1101 et seq.)”.

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

SUBCHAPTER IV—WAGE RATE REQUIREMENTS

§ 3141. Definitions

In this subchapter, the following definitions apply:

(1) **FEDERAL GOVERNMENT.**—The term “Federal Government” has the same meaning that the term “United States” had in the Act of March 3, 1931 (ch. 411, 46 Stat. 1494) (known as the Davis-Bacon Act).

(2) **WAGES, SCALE OF WAGES, WAGE RATES, MINIMUM WAGES, AND PREVAILING WAGES.**—The terms “wages”, “scale of wages”, “wage rates”, “minimum wages”, and “prevailing wages” include—

(A) the basic hourly rate of pay; and

(B) for medical or hospital care, pensions on retirement or death, compensation for injuries or illness resulting from occupational activity, or insurance to provide any of the forgoing, for unemployment benefits, life insurance, disability and sickness insurance, or accident insurance, for vacation and holiday pay, for defraying the costs of apprenticeship or other similar programs, or for other bona fide fringe benefits, but only where the contractor or subcontractor is not required by other federal, state, or local law to provide any of those benefits, the amount of—

(i) the rate of contribution irrevocably made by a contractor or subcontractor to a trustee or to a third person under a fund, plan, or program; and

(ii) the rate of costs to the contractor or subcontractor that may be reasonably anticipated in providing benefits to laborers and mechanics pursuant to an enforceable commitment to carry out a financially responsible plan or program which was communicated in writing to the laborers and mechanics affected.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1150; Pub. L. 109-284, § 6(11), Sept. 27, 2006, 120 Stat. 1213.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------------------------|------------------------------------------------------------------------------------------------------------------------|
| 3141(1) | (no source). | |
| 3141(2) | 40:276a(b) (1st par. words before proviso). | Mar. 3, 1931, ch. 411, §1(b) (1st par. words before proviso), as added Pub. L. 88-349, §1, July 2, 1964, 78 Stat. 239. |

Clause (1) is added for clarity.

REFERENCES IN TEXT

The Davis-Bacon Act, referred to in par. (1), is act of Mar. 3, 1931, ch. 411, 46 Stat. 1494, as amended, which was classified generally to sections 276a to 276a-5 of former Title 40, Public Buildings, Property, and Works, and was repealed and reenacted as sections 3141-3144, 3146, and 3147 of this title by Pub. L. 107-217, §§ 1, 6(b), Aug. 21, 2002, 116 Stat. 1062, 1304. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2006—Par. (1). Pub. L. 109-284 substituted “1494” for “1494”.

§ 3142. Rate of wages for laborers and mechanics

(a) APPLICATION.—The advertised specifications for every contract in excess of \$2,000, to which the Federal Government or the District of Columbia is a party, for construction, alteration, or repair, including painting and decorating, of public buildings and public works of the Government or the District of Columbia that are located in a State or the District of Columbia and which requires or involves the employment of mechanics or laborers shall contain a provision stating the minimum wages to be paid various classes of laborers and mechanics.

(b) BASED ON PREVAILING WAGE.—The minimum wages shall be based on the wages the Secretary of Labor determines to be prevailing for the corresponding classes of laborers and mechanics employed on projects of a character similar to the contract work in the civil subdivision of the State in which the work is to be performed, or in the District of Columbia if the work is to be performed there.

(c) STIPULATIONS REQUIRED IN CONTRACT.—Every contract based upon the specifications referred to in subsection (a) must contain stipulations that—

(1) the contractor or subcontractor shall pay all mechanics and laborers employed directly on the site of the work, unconditionally and at least once a week, and without subsequent deduction or rebate on any account, the full amounts accrued at time of payment, computed at wage rates not less than those stated in the advertised specifications, regardless of any contractual relationship which may be alleged to exist between the contractor or subcontractor and the laborers and mechanics;

(2) the contractor will post the scale of wages to be paid in a prominent and easily accessible place at the site of the work; and

(3) there may be withheld from the contractor so much of accrued payments as the contracting officer considers necessary to pay to laborers and mechanics employed by the contractor or any subcontractor on the work the difference between the rates of wages required by the contract to be paid laborers and mechanics on the work and the rates of wages received by the laborers and mechanics and not refunded to the contractor or subcontractors or their agents.

(d) DISCHARGE OF OBLIGATION.—The obligation of a contractor or subcontractor to make payment in accordance with the prevailing wage determinations of the Secretary of Labor, under

this subchapter and other laws incorporating this subchapter by reference, may be discharged by making payments in cash, by making contributions described in section 3141(2)(B)(i) of this title, by assuming an enforceable commitment to bear the costs of a plan or program referred to in section 3141(2)(B)(ii) of this title, or by any combination of payment, contribution, and assumption, where the aggregate of the payments, contributions, and costs is not less than the basic hourly rate of pay plus the amount referred to in section 3141(2)(B) of this title.

(e) OVERTIME PAY.—In determining the overtime pay to which a laborer or mechanic is entitled under any federal law, the regular or basic hourly rate of pay (or other alternative rate on which premium rate of overtime compensation is computed) of the laborer or mechanic is deemed to be the rate computed under section 3141(2)(A) of this title, except that where the amount of payments, contributions, or costs incurred with respect to the laborer or mechanic exceeds the applicable prevailing wage, the regular or basic hourly rate of pay (or other alternative rate) is the amount of payments, contributions, or costs actually incurred with respect to the laborer or mechanic minus the greater of the amount of contributions or costs of the types described in section 3141(2)(B) of this title actually incurred with respect to the laborer or mechanic or the amount determined under section 3141(2)(B) of this title but not actually paid.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1150; Pub. L. 109-284, § 6(12), (13), Sept. 27, 2006, 120 Stat. 1213.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|-------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3142(a), (b) | 40:276a(a) (words before 1st semi-colon). | Mar. 3, 1931, ch. 411, § 1(a), 46 Stat. 1494; Aug. 30, 1935, ch. 825, 49 Stat. 1011; June 15, 1940, ch. 373, § 1, 54 Stat. 399; Pub. L. 86-624, § 26, July 12, 1960, 74 Stat. 418; Pub. L. 88-349, § 1, July 2, 1964, 78 Stat. 238. |
| 3142(c) | 40:276a(a) (words after 1st semi-colon). | |
| 3142(d) | 40:276a(b) (1st par. proviso). | Mar. 3, 1931, ch. 411, § 1(b) (1st par. proviso, last par.), as added Pub. L. 88-349, § 1, July 2, 1964, 78 Stat. 239. |
| 3142(e) | 40:276a(b) (last par.). | |

In subsection (a), the words “a State” are substituted for “the geographical limits of the States of the Union” for consistency in the revised title and with other titles of the United States Code and to eliminate unnecessary words.

In subsection (b), the words “city, town, village, or other” are omitted as unnecessary.

In subsection (d), the words “of a type” are omitted as unnecessary. The words “basic hourly rate of pay” are substituted for “rate of pay described in paragraph (1)” for clarity.

AMENDMENTS

2006—Subsec. (d). Pub. L. 109-284, § 6(12), inserted “of this title” after “amount referred to in section 3141(2)(B)”.

Subsec. (e). Pub. L. 109-284, § 6(13), inserted “of this title” after “determined under section 3141(2)(B)”.

§ 3143. Termination of work on failure to pay agreed wages

Every contract within the scope of this subchapter shall contain a provision that if the contracting officer finds that any laborer or mechanic employed by the contractor or any subcontractor directly on the site of the work covered by the contract has been or is being paid a rate of wages less than the rate of wages required by the contract to be paid, the Federal Government by written notice to the contractor may terminate the contractor's right to proceed with the work or the part of the work as to which there has been a failure to pay the required wages. The Government may have the work completed, by contract or otherwise, and the contractor and the contractor's sureties shall be liable to the Government for any excess costs the Government incurs.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1151.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|-----------------------------------------------------------------------------------|
| 3143 | 40:276a-1. | Mar. 3, 1931, ch. 411, § 2, 46 Stat. 1494; Aug. 30, 1935, ch. 825, 49 Stat. 1012. |

The words "The Government may have the work completed" are substituted for "and to prosecute the work to completion . . . thereby" for clarity.

§ 3144. Authority of Comptroller General to pay wages and list contractors violating contracts**(a) PAYMENT OF WAGES.—**

(1) IN GENERAL.—The Comptroller General shall pay directly to laborers and mechanics from any accrued payments withheld under the terms of a contract any wages found to be due laborers and mechanics under this subchapter.

(2) RIGHT OF ACTION.—If the accrued payments withheld under the terms of the contract are insufficient to reimburse all the laborers and mechanics who have not been paid the wages required under this subchapter, the laborers and mechanics have the same right to bring a civil action and intervene against the contractor and the contractor's sureties as is conferred by law on persons furnishing labor or materials. In those proceedings it is not a defense that the laborers and mechanics accepted or agreed to accept less than the required rate of wages or voluntarily made refunds.

(b) LIST OF CONTRACTORS VIOLATING CONTRACTS.—

(1) IN GENERAL.—The Comptroller General shall distribute to all departments of the Federal Government a list of the names of persons whom the Comptroller General has found to have disregarded their obligations to employees and subcontractors.

(2) RESTRICTION ON AWARDED CONTRACTS.—No contract shall be awarded to persons appearing on the list or to any firm, corporation, partnership, or association in which the persons have an interest until three years have elapsed from the date of publication of the list.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1152.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|-------------------------------------------------------------------|-----------------------------------------------------------------------------------|
| 3144(a)(1) | 40:276a-2(a) (1st sentence words before semicolon). | Mar. 3, 1931, ch. 411, § 3, 46 Stat. 1494; Aug. 30, 1935, ch. 825, 49 Stat. 1012. |
| 3144(a)(2) | 40:276a-2(b). | |
| 3144(b) | 40:276a-2(a) (1st sentence words after semicolon, last sentence). | |

In subsection (b), the words "or firms" are omitted as being included in "persons".

§ 3145. Regulations governing contractors and subcontractors

(a) IN GENERAL.—The Secretary of Labor shall prescribe reasonable regulations for contractors and subcontractors engaged in constructing, carrying out, completing, or repairing public buildings, public works, or buildings or works that at least partly are financed by a loan or grant from the Federal Government. The regulations shall include a provision that each contractor and subcontractor each week must furnish a statement on the wages paid each employee during the prior week.

(b) APPLICATION.—Section 1001 of title 18 applies to the statements.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1152.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|-------------------------------------------------------------------------------------------------------------------------------------------|
| 3145(a) | 40:276c (1st sentence). | June 13, 1934, ch. 482, § 2, 48 Stat. 948; May 24, 1949, ch. 139, § 134, 63 Stat. 108; Pub. L. 85-800, § 12, Aug. 28, 1958, 72 Stat. 967. |
| 3145(b) | 40:276c (last sentence). | |

§ 3146. Effect on other federal laws

This subchapter does not supersede or impair any authority otherwise granted by federal law to provide for the establishment of specific wage rates.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1152.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|-----------------------------------------------------------------------------------|
| 3146 | 40:276a-3. | Mar. 3, 1931, ch. 411, § 4, 46 Stat. 1494; Aug. 30, 1935, ch. 825, 49 Stat. 1012. |

§ 3147. Suspension of this subchapter during a national emergency

The President may suspend the provisions of this subchapter during a national emergency.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1153.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|-----------------------------------------------------------------------------------|
| 3147 | 40:276a-5. | Mar. 3, 1931, ch. 411, § 6, 46 Stat. 1494; Aug. 30, 1935, ch. 825, 49 Stat. 1013. |

TERMINATION OF WAR AND EMERGENCIES

Joint Res. July 25, 1947, ch. 327, §3, 61 Stat. 451, provided that in the interpretation of former 40 U.S.C. 276a-5, the date July 25, 1947, was to be deemed to be the date of termination of any state of war theretofore declared by Congress and of the national emergencies proclaimed by the President on September 8, 1939, and May 27, 1941.

§ 3148. Application of this subchapter to certain contracts

This subchapter applies to a contract authorized by law that is made without regard to section 6101(b) to (d) of title 41, or on a cost-plus-a-fixed-fee basis or otherwise without advertising for proposals, if this subchapter otherwise would apply to the contract.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1153; Pub. L. 111-350, § 5(l)(14), Jan. 4, 2011, 124 Stat. 3852.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3148 | 40:276a-7. | Mar. 23, 1941, ch. 26 (last proviso in 5th complete par. on p. 53), 55 Stat. 53; Aug. 21, 1941, ch. 395 (last proviso in 14th par. on p. 664), 55 Stat. 664. |

The words “this subchapter” are substituted for “such Act” to correct the reference as stated in 40:276a-7.

AMENDMENTS

2011—Pub. L. 111-350 substituted “section 6101(b) to (d) of title 41” for “section 3709 of the Revised Statutes (41 U.S.C. 5)”.

SUBCHAPTER V—VOLUNTEER SERVICES

§ 3161. Purpose

It is the purpose of this subchapter to promote and provide opportunities for individuals who wish to volunteer their services to state or local governments, public agencies, or nonprofit charitable organizations in the construction, repair, or alteration (including painting and decorating) of public buildings and public works that at least partly are financed with federal financial assistance authorized under certain federal programs and that otherwise might not be possible without the use of volunteers.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1153.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|--------------------------------------------------------------------|
| 3161 | 40:276d. | Pub. L. 103-355, title VII, § 7302, Oct. 13, 1994, 108 Stat. 3382. |

§ 3162. Waiver for individuals who perform volunteer services

(a) **CRITERIA FOR RECEIVING WAIVER.**—The requirement that certain laborers and mechanics be paid in accordance with the wage-setting provisions of subchapter IV of this chapter as set forth in the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.), the Indian Health Care Improvement Act (25 U.S.C. 1601 et seq.), and the Housing and Community

Development Act of 1974 (42 U.S.C. 5301 et seq.) does not apply to an individual—

(1) who volunteers to perform a service directly to a state or local government, a public agency, or a public or private nonprofit recipient of federal assistance—

(A) for civic, charitable, or humanitarian reasons;

(B) only for the personal purpose or pleasure of the individual;

(C) without promise, expectation, or receipt of compensation for services rendered, except as provided in subsection (b); and

(D) freely and without pressure or coercion, direct or implied, from any employer;

(2) whose contribution of service is not for the direct or indirect benefit of any contractor otherwise performing or seeking to perform work on the same project for which the individual is volunteering;

(3) who is not employed by and does not provide services to a contractor or subcontractor at any time on the federally assisted or insured project for which the individual is volunteering; and

(4) who otherwise is not employed by the same public agency or recipient of federal assistance to perform the same type of services as those for which the individual proposes to volunteer.

(b) **PAYMENTS.**—

(1) **IN ACCORDANCE WITH REGULATIONS.**—Volunteers described in subsection (a) who are performing services directly to a state or local government or public agency may receive payments of expenses, reasonable benefits, or a nominal fee only in accordance with regulations the Secretary of Labor prescribes. Volunteers who are performing services directly to a public or private nonprofit entity may not receive those payments.

(2) **CRITERIA AND CONTENT OF REGULATIONS.**—In prescribing the regulations, the Secretary shall consider criteria such as the total amount of payments made (relating to expenses, benefits, or fees) in the context of the economic realities. The regulations shall include provisions that provide that—

(A) a payment for an expense may be received by a volunteer for items such as uniform allowances, protective gear and clothing, reimbursement for approximate out-of-pocket expenses, or the cost or expense of meals and transportation;

(B) a reasonable benefit may include the inclusion of a volunteer in a group insurance plan (such as a liability, health, life, disability, or worker’s compensation plan) or pension plan, or the awarding of a length of service award; and

(C) a nominal fee may not be used as a substitute for compensation and may not be connected to productivity.

(3) **NOMINAL FEE.**—The Secretary shall decide what constitutes a nominal fee for purposes of paragraph (2)(C). The decision shall be based on the context of the economic realities of the situation involved.

(c) **ECONOMIC REALITY.**—In determining whether an expense, benefit, or fee described in sub-

section (b) may be paid to volunteers in the context of the economic realities of the particular situation, the Secretary may not permit any expense, benefit, or fee that has the effect of undermining labor standards by creating downward pressure on prevailing wages in the local construction industry.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1153.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|-----------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3162(a) | 40:276d–1(a). 40:276d–2. 40:276d–3. | Pub. L. 103–355, title VII, §§ 7303, 7304, Oct. 13, 1994, 108 Stat. 3382. Pub. L. 103–355, title VII, § 7305, Oct. 13, 1994, 108 Stat. 3384; Pub. L. 104–208, div. A, § 101(e) [title VII, § 709(a)(4)], Sept. 30, 1996, 110 Stat. 3009–312. |
| 3162(b) | 40:276d–1(b). | |
| 3162(c) | 40:276d–1(c). | |

In subsection (a), the references to sections 254b and 254c of title 42 in 40:276d–3 are omitted. Sections 329 and 330 of the Public Health Service Act were omitted in the general amendment of subpart I of part D of title III of the Act (42:254b et seq.) by sections 2 and 3(a) of the Health Care Consolidation Act of 1996 (Public Law 104–299, 110 Stat. 3626), which enacted new sections 330 and 330A of the Public Health Service Act. Sections 330 and 330A do not refer to the Act of March 3, 1931 (ch. 411, 46 Stat. 1494).

In subsection (b)(1), the words “Volunteers who are performing services directly to a public or private non-profit entity may not receive those payments” are added for clarity.

REFERENCES IN TEXT

The Indian Self-Determination and Education Assistance Act, referred to in subsec. (a), is Pub. L. 93–638, Jan. 4, 1975, 88 Stat. 2203, as amended, which is classified principally to subchapter II (§ 450 et seq.) of chapter 14 of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 450 of Title 25 and Tables.

The Indian Health Care Improvement Act, referred to in subsec. (a), is Pub. L. 94–437, Sept. 30, 1976, 90 Stat. 1400, as amended, which is classified principally to chapter 18 (§ 1601 et seq.) of Title 25, Indians. For complete classification of this Act to the Code, see Short Title note set out under section 1601 of Title 25 and Tables.

The Housing and Community Development Act of 1974, referred to in subsec. (a), is Pub. L. 93–383, Aug. 22, 1974, 88 Stat. 633, as amended. For complete classification of this Act to the Code, see Short Title note set out under section 5301 of Title 42 and Tables.

SUBCHAPTER VI—MISCELLANEOUS

§ 3171. Contract authority when appropriation is for less than full amount

Unless specifically directed otherwise, the Administrator of General Services may make a contract within the full limit of the cost fixed by Congress for the acquisition of land for sites, or for the enlargement of sites, for public buildings, or for the erection, remodeling, extension, alteration, and repairs of public buildings, even though an appropriation is made for only part of the amount necessary to carry out legislation authorizing that purpose.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1154.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|--------------------------------------------|
| 3171 | 40:261. | May 30, 1908, ch. 228, § 34, 35 Stat. 545. |

The words “On and after May 30, 1908” are omitted as obsolete. The words “Administrator of General Services” are substituted for “Secretary of the Treasury” [subsequently changed to “Federal Works Administrator” because of section 303 of Reorganization Plan No. 1 of 1939 (eff. July 1, 1939, 53 Stat. 1427)] because of section 103(a) of the Federal Property and Administrative Services Act of 1949 (ch. 288, 63 Stat. 380), which is restated as section 303(c) [303(b)] of the revised title.

§ 3172. Extension of state workers’ compensation laws to buildings, works, and property of the Federal Government

(a) **AUTHORIZATION OF EXTENSION.**—The state authority charged with enforcing and requiring compliance with the state workers’ compensation laws and with the orders, decisions, and awards of the authority may apply the laws to all land and premises in the State which the Federal Government owns or holds by deed or act of cession, and to all projects, buildings, constructions, improvements, and property in the State and belonging to the Government, in the same way and to the same extent as if the premises were under the exclusive jurisdiction of the State in which the land, premises, projects, buildings, constructions, improvements, or property are located.

(b) **LIMITATION ON RELINQUISHING JURISDICTION.**—The Government under this section does not relinquish its jurisdiction for any other purpose.

(c) **NONAPPLICATION.**—This section does not modify or amend subchapter I of chapter 81 of title 5.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1154.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------------------------------------------|----------------------------------------|
| 3172(a) | 40:290 (1st par., last par. words before 1st proviso). | June 25, 1936, ch. 822, 49 Stat. 1938. |
| 3172(b) | 40:290 (last par. 1st proviso). | |
| 3172(c) | 40:290 (last par. last proviso). | |

In subsection (a), the words “by purchase or otherwise” and 40:290(last par. words before 1st proviso) are omitted as unnecessary.

Subsection (b) is substituted for 40:290(last par. 1st proviso) to eliminate unnecessary words.

In subsection (c), the words “subchapter I of chapter 81 of title 5” are substituted for “the United States Employees’ Compensation Act as amended from time to time (Act of September 7, 1916, 39 Stat. 742, U.S.C., title 5 and supplement, sec. 751 et seq.)” because of section 7(b) of the Act of September 6, 1966 (Public Law 89–554, 80 Stat. 631), the first section of which enacted Title 5, United States Code.

§ 3173. Working capital fund for General Services Administration

(a) **ESTABLISHMENT AND PURPOSE.**—There is a working capital fund for the necessary expenses of administrative support services including accounting, budget, personnel, legal support and

other related services; and the maintenance and operation of printing and reproduction facilities in support of the functions of the General Services Administration, other Federal agencies, and other entities; and other such administrative and management services that the Administrator of GSA deems appropriate and advantageous (subject to prior notice to the Office of Management and Budget).

(b) COMPOSITION.—

(1) IN GENERAL.—Amounts received shall be credited to and merged with the Fund, to remain available until expended, for operating costs and capital outlays of the Fund: *Provided*, That entities for which such services are performed shall be charged at rates which will return in full all costs of providing such services.

(2) COST AND CAPITAL REQUIREMENTS.—The Administrator shall determine the cost and capital requirements of the Fund for each fiscal year and shall develop a plan concerning such requirements in consultation with the Chief Financial Officer of the General Services Administration. Any change to the cost and capital requirements of the Fund for a fiscal year shall be approved by the Administrator. The Administrator shall establish rates to be charged to entities for which services are performed, in accordance with the plan.

(c) DEPOSIT OF EXCESS AMOUNTS IN THE TREASURY.—At the close of each fiscal year, after making provision for anticipated operating needs reflected in the cost and capital plan developed under subsection (b), the uncommitted balance of any funds remaining in the Fund shall be transferred to the general fund of the Treasury as miscellaneous receipts.

(d) TRANSFER AND USE OF AMOUNTS FOR MAJOR EQUIPMENT ACQUISITIONS.—

(1) IN GENERAL.—Subject to subparagraph (2), unobligated balances of amounts appropriated or otherwise made available to the General Services Administration for operating expenses and salaries and expenses may be transferred and merged into the “Major equipment acquisitions and development activity” of the working capital fund of the General Services Administration for agency-wide acquisition of capital equipment, automated data processing systems and financial management and management information systems: *Provided*, That acquisitions are limited to those needed to implement the Chief Financial Officers Act of 1990 (Public Law 101–576, 104 Stat. 2838) and related laws or regulations.

(2) REQUIREMENTS AND AVAILABILITY.—

(A) TIME FOR TRANSFER.—Transfer of an amount under this section must be done no later than the end of the fifth fiscal year after the fiscal year for which the amount is appropriated or otherwise made available.

(B) APPROVAL FOR USE.—An amount transferred under this section may be used only with the advance approval of the Committees on Appropriations of the House of Representatives and the Senate.

(C) AVAILABILITY.—An amount transferred under this section remains available until expended.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1155; Pub. L. 111–8, div. D, title V, § 518(a), (b), (c)(2), Mar. 11, 2009, 123 Stat. 664, 665.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------------------|--------------------------------------------------------------------------------|
| 3173(a), (b) | 40:293 (words before proviso). | May 3, 1945, ch. 106, title I, 101 (2d complete par. on p. 115), 59 Stat. 115. |
| 3173(c) | 40:293 (proviso). | |

In subsection (b)(2), the words “Administrator of General Services” are substituted for “Federal Works Agency” and “Public Buildings Administration” because of section 103(a) of the Federal Property and Administrative Services Act of 1949 (ch. 288, 63 Stat. 380), which is restated as section 303(c) [303(b)] of the revised title.

REFERENCES IN TEXT

The Chief Financial Officers Act of 1990, referred to in subsec. (d)(1), is Pub. L. 101–576, Nov. 15, 1990, 104 Stat. 2838. For complete classification of this Act to the Code, see Short Title of 1990 Amendment note set out under section 501 of Title 31, Money and Finance, and Tables.

AMENDMENTS

2009—Pub. L. 111–8, § 518(c)(2), substituted “Working capital fund for General Services Administration” for “Working capital fund for blueprinting, photostating, and duplicating services in General Services Administration” in section catchline.

Subsecs. (a) to (c). Pub. L. 111–8, § 518(a), amended subsecs. (a) to (c) generally. Prior to amendment, subsecs. (a) to (c) related to establishment and purpose of a working capital fund, components of the fund, and deposit of excess amounts in the Treasury.

Subsec. (d). Pub. L. 111–8, § 518(b), added subsec. (d).

§ 3174. Operation of public utility communications services serving governmental activities

The Administrator of General Services may provide and operate public utility communications services serving any governmental activity when the services are economical and in the interest of the Federal Government. This section does not apply to communications systems for handling messages of a confidential or secret nature, the operation of cryptographic equipment or transmission of secret, security, or coded messages, or buildings operated or occupied by the United States Postal Service, except on request of the department or agency concerned.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1155.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|--------------------------------------------|
| 3174 | 40:295. | June 14, 1946, ch. 404, § 7, 60 Stat. 258. |

The words “Administrator of General Services” are substituted for “Commissioner of Public Buildings” because of section 103(a) of the Federal Property and Administrative Services Act of 1949 (ch. 288, 63 Stat. 380), which is restated as section 303(c) [303(b)] of the revised title. The words “in and outside the District of Columbia” are omitted as unnecessary. The words “United States Postal Service” are substituted for “Post Office Department” because of section 6(o) of the Postal Reorganization Act (Public Law 91–375, 84 Stat. 783).

§ 3175. Acceptance of gifts of property

The Administrator of General Services, and the United States Postal Service where that office is concerned, may accept on behalf of the Federal Government unconditional gifts of property in aid of any project or function within their respective jurisdictions.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1155.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|--------------------------------------------------------|
| 3175 | 40:298a. | June 16, 1949, ch. 218, title IV, § 404, 63 Stat. 199. |

The words “Administrator of General Services” are substituted for “Federal Works Administrator” because of section 103(a) of the Federal Property and Administrative Services Act of 1949 (ch. 288, 63 Stat. 380), which is restated as section 303(c) [303(b)] of the revised title. The words “United States Postal Service” are substituted for “Postmaster General” because of section 6(o) of the Postal Reorganization Act (Public Law 91–375, 84 Stat. 783). The words “real, personal, or other” are omitted as unnecessary.

§ 3176. Administrator of General Services to furnish services in continental United States to international bodies

Sections 1535 and 1536 of title 31 are extended so that the Administrator of General Services, at the request of the Secretary of State, may furnish services in the continental United States, on a reimbursable basis, to any international body with which the Federal Government is affiliated.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1156.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|--------------------------------------------------------|
| 3176 | 40:298b. | June 16, 1949, ch. 218, title IV, § 405, 63 Stat. 199. |

The words “Sections 1535 and 1536 of title 31” are substituted for “section 601 of the Economy Act, approved June 30, 1932, as amended” because of section 4(b) of the Act of September 13, 1982 (Public Law 97–258, 96 Stat. 1067), the first section of which enacted Title 31, United States Code. The words “Administrator of General Services” are substituted for “Public Buildings Administration” because of section 103(a) of the Federal Property and Administrative Services Act of 1949 (ch. 288, 63 Stat. 380), which is restated as section 303(c) [303(b)] of the revised title. The words “Secretary of State” are substituted for “State Department” because of 22:2651.

§ 3177. Use of photovoltaic energy in public buildings

(a) PHOTOVOLTAIC ENERGY COMMERCIALIZATION PROGRAM.—

(1) IN GENERAL.—The Administrator of General Services may establish a photovoltaic energy commercialization program for the procurement and installation of photovoltaic solar electric systems for electric production in new and existing public buildings.

(2) PURPOSES.—The purposes of the program shall be to accomplish the following:

(A) To accelerate the growth of a commercially viable photovoltaic industry to make this energy system available to the general

public as an option which can reduce the national consumption of fossil fuel.

(B) To reduce the fossil fuel consumption and costs of the Federal Government.

(C) To attain the goal of installing solar energy systems in 20,000 Federal buildings by 2010, as contained in the Federal Government’s Million Solar Roof Initiative of 1997.

(D) To stimulate the general use within the Federal Government of life-cycle costing and innovative procurement methods.

(E) To develop program performance data to support policy decisions on future incentive programs with respect to energy.

(3) ACQUISITION OF PHOTOVOLTAIC SOLAR ELECTRIC SYSTEMS.—

(A) IN GENERAL.—The program shall provide for the acquisition of photovoltaic solar electric systems and associated storage capability for use in public buildings.

(B) ACQUISITION LEVELS.—The acquisition of photovoltaic electric systems shall be at a level substantial enough to allow use of low-cost production techniques with at least 150 megawatts (peak) cumulative acquired during the 5 years of the program.

(4) ADMINISTRATION.—The Administrator shall administer the program and shall—

(A) issue such rules and regulations as may be appropriate to monitor and assess the performance and operation of photovoltaic solar electric systems installed pursuant to this subsection;

(B) develop innovative procurement strategies for the acquisition of such systems; and

(C) transmit to Congress an annual report on the results of the program.

(b) PHOTOVOLTAIC SYSTEMS EVALUATION PROGRAM.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this section, the Administrator shall establish a photovoltaic solar energy systems evaluation program to evaluate such photovoltaic solar energy systems as are required in public buildings.

(2) PROGRAM REQUIREMENT.—In evaluating photovoltaic solar energy systems under the program, the Administrator shall ensure that such systems reflect the most advanced technology.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) PHOTOVOLTAIC ENERGY COMMERCIALIZATION PROGRAM.—There are authorized to be appropriated to carry out subsection (a) \$50,000,000 for each of fiscal years 2006 through 2010. Such sums shall remain available until expended.

(2) PHOTOVOLTAIC SYSTEMS EVALUATION PROGRAM.—There are authorized to be appropriated to carry out subsection (b) \$10,000,000 for each of fiscal years 2006 through 2010. Such sums shall remain available until expended.

(Added Pub. L. 109–58, title II, § 204(a), Aug. 8, 2005, 119 Stat. 653.)

REFERENCES IN TEXT

The date of enactment of this section, referred to in subsec. (b)(1), is the date of enactment of Pub. L. 109–58, which was approved Aug. 8, 2005.

CHAPTER 33—ACQUISITION, CONSTRUCTION, AND ALTERATION

| Sec. | |
|-------|---------------------------------------------------------------------------------------|
| 3301. | Definitions and nonapplication. |
| 3302. | Prohibition on construction of buildings except by Administrator of General Services. |
| 3303. | Continuing investigation and survey of public buildings. |
| 3304. | Acquisition of buildings and sites. |
| 3305. | Construction and alteration of buildings. |
| 3306. | Accommodating federal agencies. |
| 3307. | Congressional approval of proposed projects. |
| 3308. | Architectural or engineering services. |
| 3309. | Buildings and sites in the District of Columbia. |
| 3310. | Special rules for leased buildings. |
| 3311. | State administration of criminal and health and safety laws. |
| 3312. | Compliance with nationally recognized codes. |
| 3313. | Use of energy efficient lighting fixtures and bulbs. |
| 3314. | Delegation. |
| 3315. | Report to Congress. |
| 3316. | Certain authority not affected. |

AMENDMENTS

2007—Pub. L. 110-140, title III, § 323(c)(2), Dec. 19, 2007, 121 Stat. 1591, added items 3313 to 3316 and struck out former items 3313 “Delegation”, 3314 “Report to Congress”, and 3315 “Certain authority not affected”.

§ 3301. Definitions and nonapplication

(a) DEFINITIONS.—In this chapter—

(1) ALTER.—The term “alter” includes—

(A) preliminary planning, engineering, architectural, legal, fiscal, and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other similar actions necessary for the alteration of a public building; and

(B) repairing, remodeling, improving, or extending, or other changes in, a public building.

(2) CONSTRUCT.—The term “construct” includes preliminary planning, engineering, architectural, legal, fiscal, and economic investigations and studies, surveys, designs, plans, working drawings, specifications, procedures, and other similar actions necessary for the construction of a public building.

(3) EXECUTIVE AGENCY.—The term “executive agency” means an executive department or independent establishment in the executive branch of the Federal Government, including—

(A) any wholly owned Government corporation;

(B) the Central-Bank for Cooperatives and the regional banks for cooperatives;

(C) federal land banks;

(D) federal intermediate credit banks;

(E) the Federal Deposit Insurance Corporation; and

(F) the Government National Mortgage Association.

(4) FEDERAL AGENCY.—The term “federal agency” means an executive agency or an establishment in the legislative or judicial branch of the Government (except the Senate, the House of Representatives, and the Architect of the Capitol and any activities under the direction of the Architect).

(5) PUBLIC BUILDING.—The term “public building”—

(A) means a building, whether for single or multitenant occupancy, and its grounds, approaches, and appurtenances, which is generally suitable for use as office or storage space or both by one or more federal agencies or mixed-ownership Government corporations;

(B) includes—

(i) federal office buildings;

(ii) post offices;

(iii) customhouses;

(iv) courthouses;

(v) appraisers stores;

(vi) border inspection facilities;

(vii) warehouses;

(viii) record centers;

(ix) relocation facilities;

(x) telecommuting centers;

(xi) similar federal facilities; and

(xii) any other buildings or construction projects the inclusion of which the President considers to be justified in the public interest; but

(C) does not include a building or construction project described in subparagraphs (A) and (B)—

(i) that is on the public domain (including that reserved for national forests and other purposes);

(ii) that is on property of the Government in foreign countries;

(iii) that is on Indian and native Eskimo property held in trust by the Government;

(iv) that is on land used in connection with federal programs for agricultural, recreational, and conservation purposes, including research in connection with the programs;

(v) that is on or used in connection with river, harbor, flood control, reclamation or power projects, for chemical manufacturing or development projects, or for nuclear production, research, or development projects;

(vi) that is on or used in connection with housing and residential projects;

(vii) that is on military installations (including any fort, camp, post, naval training station, airfield, proving ground, military supply depot, military school, or any similar facility of the Department of Defense);

(viii) that is on installations of the Department of Veterans Affairs used for hospital or domiciliary purposes; or

(ix) the exclusion of which the President considers to be justified in the public interest.

(6) UNITED STATES.—The term “United States” includes the States of the United States, the District of Columbia, Puerto Rico, and the territories and possessions of the United States.

(b) NONAPPLICATION.—This chapter does not apply to the construction of any public building to which section 241(g) of the Immigration and Nationality Act (8 U.S.C. 1231(g)) or section 1 of the Act of June 26, 1930 (19 U.S.C. 68) applies.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1156.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3301(a)(1) | 40:612(2), (5), (6). | Pub. L. 86–249, §13, Sept. 9, 1959, 73 Stat. 482; Pub. L. 90–448, title VIII, §807(f), Aug. 1, 1968, 82 Stat. 544; Pub. L. 101–73, title VII, §744(g), Aug. 9, 1989, 103 Stat. 438; Pub. L. 102–54, §13(o), June 13, 1991, 105 Stat. 278; Pub. L. 104–208, div. A, title I, §101(f) [title IV, §407(b)], Sept. 30, 1996, 110 Stat. 3009–338. |
| | 40:612a(1). | Pub. L. 94–541, title I, §105(1), (2), Oct. 18, 1976, 90 Stat. 2507. |
| 3301(a)(2) | 40:612(6). | |
| 3301(a)(3) | 40:612(4). | |
| 3301(a)(4) | 40:612(3). | |
| | 40:612a(2). | |
| 3301(a)(5) | 40:612(1). | |
| | 40:612a(2). | |
| 3301(a)(6) | 40:612(7). | |
| 3301(b) | 40:613. | Pub. L. 86–249, §14, Sept. 9, 1959, 73 Stat. 483. |

In subsection (a), the text of 40:612(2) and 612a(1) is omitted because the complete name of the Administrator of General Services is used the first time the term appears in a section. In clause (5)(A), the words “mixed-ownership Government corporation” are substituted for “mixed ownership corporation” for consistency with 31:9101. In clause (5)(B) and (C), the words “from time to time hereafter” are omitted as unnecessary. In clause (6), the words “territories and” are added for consistency in the revised title and with other titles of the United States Code.

In subsection (b), the text of 40:613(1)–(3) is omitted as obsolete. The reference is to section 241(g) of the Immigration and Nationality Act rather than to section 242(c) to reflect the amendment of sections 241 and 242 by sections 305(a)(3) and 306(a)(2) of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104–208, div. C, 110 Stat. 3009–598, 3009–607).

§ 3302. Prohibition on construction of buildings except by Administrator of General Services

Only the Administrator of General Services may construct a public building. The Administrator shall construct a public building in accordance with this chapter.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1158.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|--------------------------------------------------|
| 3302 | 40:601. | Pub. L. 86–249, §2, Sept. 9, 1959, 73 Stat. 479. |

§ 3303. Continuing investigation and survey of public buildings

(a) CONDUCTED BY ADMINISTRATOR.—The Administrator of General Services shall—

(1) make a continuing investigation and survey of the public buildings needs of the Federal Government so that the Administrator may carry out the duties of the Administrator under this chapter; and

(2) submit to Congress prospectuses of proposed projects in accordance with section 3307(a) and (b) of this title.

(b) COOPERATION WITH FEDERAL AGENCIES.—

(1) DUTIES OF ADMINISTRATOR.—In carrying out the duties of the Administrator under this chapter, the Administrator—

(A) shall cooperate with all federal agencies in order to keep informed of their needs;

(B) shall advise each federal agency of the program with respect to the agency; and

(C) may request the cooperation and assistance of each federal agency in carrying out duties under this chapter.

(2) DUTY OF FEDERAL AGENCIES.—Each federal agency shall cooperate with, advise, and assist the Administrator in carrying out the duties of the Administrator under this chapter as determined necessary by the Administrator to carry out the purposes of this chapter.

(c) REQUEST FOR IDENTIFICATION OF EXISTING BUILDINGS OF HISTORICAL, ARCHITECTURAL, OR CULTURAL SIGNIFICANCE.—When the Administrator undertakes a survey of the public buildings needs of the Government within a geographical area, the Administrator shall request that, within 60 days, the Advisory Council on Historic Preservation established by title II of the National Historic Preservation Act (16 U.S.C. 470i et seq.) identify any existing buildings in the geographical area that—

(1) are of historical, architectural, or cultural significance (as defined in section 3306(a) of this title); and

(2) whether or not in need of repair, alteration, or addition, would be suitable for acquisition to meet the public buildings needs of the Government.

(d) STANDARD FOR CONSTRUCTION AND ACQUISITION OF PUBLIC BUILDINGS.—In carrying out the duties of the Administrator under this chapter, the Administrator shall provide for the construction and acquisition of public buildings equitably throughout the United States with due regard to the comparative urgency of the need for each particular building. In developing plans for new buildings, the Administrator shall give due consideration to excellence of architecture and design.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1158.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3303(a) | 40:611(a). | Pub. L. 86–249, §12(a), (b), (d), Sept. 9, 1959, 73 Stat. 482; Pub. L. 92–313, §2(2), (3), June 16, 1972, 86 Stat. 216; Pub. L. 94–541, title I, §103(3), Oct. 18, 1976, 90 Stat. 2506. |
| 3303(b) | 40:611(b). | |
| 3303(c) | 40:611(c). | Pub. L. 86–249, §12(c), as added Pub. L. 94–541, title I, §103(3), Oct. 18, 1976, 90 Stat. 2506. |
| 3303(d) | 40:611(d). | |

In subsection (c)(1), the word “historical” is substituted for “historic” to conform to the defined term.

In subsection (c)(2), the word “purchase” is omitted as being included in “[...]acquisition”.

REFERENCES IN TEXT

The National Historic Preservation Act, referred to in subsec. (c), is Pub. L. 89–665, Oct. 15, 1966, 80 Stat. 915, as amended. Title II of the Act is classified generally to sections 470i to 470v of Title 16, Conservation. For complete classification of this Act to the Code, see section 470 of Title 16 and Tables.

§ 3304. Acquisition of buildings and sites

(a) IN GENERAL.—The Administrator of General Services may acquire, by purchase, condemnation, donation, exchange, or otherwise, any building and its site which the Administrator decides is necessary to carry out the duties of the Administrator under this chapter.

(b) ACQUISITION OF LAND OR INTEREST IN LAND FOR USE AS SITES.—The Administrator may acquire, by purchase, condemnation, donation, exchange, or otherwise, land or an interest in land the Administrator considers necessary for use as sites, or additions to sites, for public buildings authorized to be constructed or altered under this chapter.

(c) PUBLIC BUILDINGS USED FOR POST OFFICE PURPOSES.—When any part of a public building is to be used for post office purposes, the Administrator shall act jointly with the United States Postal Service in selecting the town or city where the building is to be constructed, and in selecting the site in the town or city for the building.

(d) SOLICITATION OF PROPOSALS FOR SALE, DONATION, OR EXCHANGE OF REAL PROPERTY.—When the Administrator is to acquire a site under subsection (b), the Administrator, if the Administrator considers it necessary, by public advertisement may solicit proposals for the sale, donation, or exchange of real property to the Federal Government to be used as the site. In selecting a site under subsection (b) the Administrator (with the concurrence of the United States Postal Service if any part of the public building to be constructed on the site is to be used for post office purposes) may—

(1) select the site that the Administrator believes is the most advantageous to the Government, all factors considered; and

(2) acquire the site without regard to division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1158; Pub. L. 108–178, §3(1), Dec. 15, 2003, 117 Stat. 2640; Pub. L. 111–350, §5(l)(15), Jan. 4, 2011, 124 Stat. 3852.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|------------------------------------------------------|
| 3304(a) | 40:602. | Pub. L. 86–249, §§3, 5, Sept. 9, 1959, 73 Stat. 479. |
| 3304(b) | 40:604(a). | |
| 3304(c) | 40:604(b). | |
| 3304(d) | 40:604(c). | |

In subsections (c) and (d), the words “United States Postal Service” are substituted for “Postmaster General” in subsections (b) and (c) of section 5 of the Public Buildings Act of 1959 (Public Law 86–249, 73 Stat. 479) because of section 4(a) of the Postal Reorganization Act (Public Law 91–375, 84 Stat. 773).

AMENDMENTS

2011—Subsec. (d)(2). Pub. L. 111–350 substituted “division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41” for “title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.)”.

2003—Subsec. (b). Pub. L. 108–178 inserted “, by purchase, condemnation, donation, exchange, or otherwise,” after “The Administrator may acquire”.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–178 effective Aug. 21, 2002, see section 5 of Pub. L. 108–178, set out as a note under

section 5334 of Title 5, Government Organization and Employees.

§ 3305. Construction and alteration of buildings

(a) CONSTRUCTION.—

(1) REPLACEMENT OF EXISTING BUILDINGS.—When the Administrator of General Services considers it to be in the best interest of the Federal Government to construct a new public building to take the place of an existing public building, the Administrator may demolish the existing building and use the site on which it is located for the site of the proposed public building. If the Administrator believes that it is more advantageous to construct the public building on a different site in the same city, the Administrator may exchange the building and site, or the site, for another site, or may sell the building and site in accordance with subtitle I of this title and division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41.

(2) SALE OR EXCHANGE OF SITES.—When the Administrator decides that a site acquired for the construction of a public building is not suitable for that purpose, the Administrator may exchange the site for another site, or may sell it in accordance with subtitle I of this title and division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41.

(3) COMMITTEE APPROVAL REQUIRED.—This subsection does not permit the Administrator to use any land as a site for a public building if the project has not been approved in accordance with section 3307 of this title.

(b) ALTERATION OF BUILDINGS.—

(1) AUTHORITY TO ALTER BUILDINGS AND ACQUIRE LAND.—The Administrator may—

(A) alter any public building; and

(B) acquire in accordance with section 3304(b)–(d) of this title land necessary to carry out the alteration.

(2) COMMITTEE APPROVAL NOT REQUIRED.—

(A) THRESHOLD AMOUNT.—Approval under section 3307 of this title is not required for any alteration and acquisition authorized by this subsection for which the estimated maximum cost does not exceed \$1,500,000.

(B) DOLLAR AMOUNT ADJUSTMENT.—The Administrator annually may adjust the dollar amount referred to in subparagraph (A) to reflect a percentage increase or decrease in construction costs during the prior calendar year, as determined by the composite index of construction costs of the Department of Commerce. Any adjustment shall be expeditiously reported to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(c) CONSTRUCTION OR ALTERATION BY CONTRACT.—The Administrator may carry out any construction or alteration authorized by this chapter by contract if the Administrator considers it to be most advantageous to the Government.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1159; Pub. L. 111–350, §5(l)(16), Jan. 4, 2011, 124 Stat. 3852.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|--------------------------------|-------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3305(a) | 40:605. | Pub. L. 86-249, §§6, 9, Sept. 9, 1959, 73 Stat. 479, 481. |
| 3305(b)(1) | 40:603(a). | Pub. L. 86-249, §4, Sept. 9, 1959, 73 Stat. 479; Pub. L. 92-313, §2(1), June 16, 1972, 86 Stat. 216; Pub. L. 100-678, §2, Nov. 17, 1988, 102 Stat. 4049. |
| 3305(b)(2)(A) 3305(b)(2)(B) | 40:603(b). 40:606(f) (related to 40:603(b)). | Pub. L. 86-249, §7(f) (related to §4(b)), Sept. 9, 1959, as added Pub. L. 100-678, §4, Nov. 17, 1988, 102 Stat. 4050. |
| 3305(c) | 40:608. | |

In subsection (a)(1) and (2), the words “and title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.)” are added to provide an accurate literal translation of the words “this Act”, meaning the Federal Property and Administrative Services Act of 1949. See the revision note under section 111 of this title.

In subsection (b)(2)(B), the words “Transportation and Infrastructure” are substituted for “Public Works and Transportation” in section 7(f) of the Public Buildings Act of 1959 (Public Law 86-249, 73 Stat. 480) because of section 1(a)(9) of the Act of June 3, 1995 (Public Law 104-14, 2:21 note prec.).

AMENDMENTS

2011—Subsec. (a)(1), (2). Pub. L. 111-350 substituted “division C (except sections 3302, 3501(b), 3509, 3906, 4710, and 4711) of subtitle I of title 41” for “title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.)”.

§ 3306. Accommodating federal agencies

(a) DEFINITIONS.—In this section—

(1) COMMERCIAL ACTIVITIES.—The term “commercial activities” includes the operations of restaurants, food stores, craft stores, dry goods stores, financial institutions, and display facilities.

(2) CULTURAL ACTIVITIES.—The term “cultural activities” includes film, dramatic, dance, and musical presentations, and fine art exhibits, whether or not those activities are intended to make a profit.

(3) EDUCATIONAL ACTIVITIES.—The terms “educational activities” includes the operations of libraries, schools, day care centers, laboratories, and lecture and demonstration facilities.

(4) HISTORICAL, ARCHITECTURAL, OR CULTURAL SIGNIFICANCE.—The term “historical, architectural, or cultural significance” includes buildings listed or eligible to be listed on the National Register established under section 101 of the National Historic Preservation Act (16 U.S.C. 470a).

(5) RECREATIONAL ACTIVITIES.—The term “recreational activities” includes the operations of gymnasiums and related facilities.

(6) UNIT OF GENERAL LOCAL GOVERNMENT.—The term “unit of general local government” means a city, county, town, parish, village, or other general-purpose political subdivision of a State.

(b) DUTIES OF ADMINISTRATOR.—To carry out the duties of the Administrator of General Services under sections 581(h), 584(b), 3303(c), and 3307(b)(3) and (5) of this title and under any other authority with respect to constructing,

operating, maintaining, altering, and otherwise managing or acquiring space necessary to accommodate federal agencies and to accomplish the purposes of sections 581(h), 584(b), 3303(c), and 3307(b)(3) and (5), the Administrator shall—

(1) acquire and utilize space in suitable buildings of historical, architectural, or cultural significance, unless use of the space would not prove feasible and prudent compared with available alternatives;

(2) encourage the location of commercial, cultural, educational, and recreational facilities and activities in public buildings;

(3) provide and maintain space, facilities, and activities, to the extent practicable, that encourage public access to, and stimulate public pedestrian traffic around, into, and through, public buildings, permitting cooperative improvements to and uses of the area between the building and the street, so that the activities complement and supplement commercial, cultural, educational, and recreational resources in the neighborhood of public buildings; and

(4) encourage the public use of public buildings for cultural, educational, and recreational activities.

(c) CONSULTATION AND SOLICITATION OF COMMENTS.—In carrying out the duties under subsection (b), the Administrator shall—

(1) consult with chief executive officers of the States, areawide agencies established pursuant to title II of the Demonstration Cities and Metropolitan Development Act of 1966 (42 U.S.C. 3331 et seq.) and section 6506 of title 31, and chief executive officers of those units of general local government in each area served by an existing or proposed public building; and

(2) solicit the comments of other community leaders and members of the general public as the Administrator considers appropriate.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1160.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|---------------------------------------------------------------------------------|
| 3306(a)(1) | 40:612a(5). | Pub. L. 94-541, title I, §§102, 105(3)-(8), Oct. 18, 1976, 90 Stat. 2505, 2507. |
| 3306(a)(2) | 40:612a(6). | |
| 3306(a)(3) | 40:612a(7). | |
| 3306(a)(4) | 40:612a(4). | |
| 3306(a)(5) | 40:612a(8). | |
| 3306(a)(6) | 40:612a(3). | |
| 3306(b) | 40:601a(a). | |
| 3306(c) | 40:601a(b). | |

In subsection (b)(1), the word “historical” is substituted for “historic” to conform to the defined term.

In subsection (c)(1), the words “chief executive officers of the States” are substituted for “Governors” for clarity and for consistency in the revised title and with other titles of the United States Code. The words “section 6506 of title 31” are substituted for “title IV of the Intergovernmental Cooperation Act of 1968” in section 102(b) of the Public Buildings Cooperative Use Act of 1976 (Public Law 94-541, 90 Stat. 2505) because of section 4(b) of the Act of September 13, 1982 (Public Law 97-258, 96 Stat. 1067), the first section of which enacted Title 31, United States Code.

REFERENCES IN TEXT

The Demonstration Cities and Metropolitan Development Act of 1966, referred to in subsec. (c)(1), is Pub. L. 89-754, Nov. 3, 1966, 80 Stat. 1255, as amended. Title II of

the Act is classified generally to subchapter II (§3331 et seq.) of chapter 41 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 3331 of Title 42 and Tables.

EX. ORD. NO. 13006. LOCATING FEDERAL FACILITIES ON HISTORIC PROPERTIES IN OUR NATION'S CENTRAL CITIES

Ex. Ord. No. 13006, May 21, 1996, 61 F.R. 26071, provided:

By the authority vested in me as President by the Constitution and the laws of the United States of America, including the National Historic Preservation Act (16 U.S.C. 470 *et seq.*) and the Public Buildings Cooperative Use Act of 1976 (90 Stat. 2505) [title I of Pub. L. 94-541, see Tables for classification], and in furtherance of and consistent with Executive Order No. 12072 of August 16, 1978 [40 U.S.C. 121 note], and Executive Order No. 11593 of May 13, 1971 [16 U.S.C. 470 note], it is hereby ordered as follows:

SECTION 1. *Statement of Policy.* Through the Administration's community empowerment initiatives, the Federal Government has undertaken various efforts to revitalize our central cities, which have historically served as the centers for growth and commerce in our metropolitan areas. Accordingly, the Administration hereby reaffirms the commitment set forth in Executive Order No. 12072 to strengthen our Nation's cities by encouraging the location of Federal facilities in our central cities. The Administration also reaffirms the commitments set forth in the National Historic Preservation Act to provide leadership in the preservation of historic resources, and in the Public Buildings Cooperative Use Act of 1976 to acquire and utilize space in suitable buildings of historic, architectural, or cultural significance.

To this end, the Federal Government shall utilize and maintain, wherever operationally appropriate and economically prudent, historic properties and districts, especially those located in our central business areas. When implementing these policies, the Federal Government shall institute practices and procedures that are sensible, understandable, and compatible with current authority and that impose the least burden on, and provide the maximum benefit to, society.

SEC. 2. *Encouraging the Location of Federal Facilities on Historic Properties in Our Central Cities.* When operationally appropriate and economically prudent, and subject to the requirements of section 601 of title VI of the Rural Development Act of 1972, as amended (42 U.S.C. 3122) [now 7 U.S.C. 2204b-1], and Executive Order No. 12072, when locating Federal facilities, Federal agencies shall give first consideration to historic properties within historic districts. If no such property is suitable, then Federal agencies shall consider other developed or undeveloped sites within historic districts. Federal agencies shall then consider historic properties outside of historic districts, if no suitable site within a district exists. Any rehabilitation or construction that is undertaken pursuant to this order must be architecturally compatible with the character of the surrounding historic district or properties.

SEC. 3. *Identifying and Removing Regulatory Barriers.* Federal agencies with responsibilities for leasing, acquiring, locating, maintaining, or managing Federal facilities or with responsibilities for the planning for, or managing of, historic resources shall take steps to reform, streamline, and otherwise minimize regulations, policies, and procedures that impede the Federal Government's ability to establish or maintain a presence in historic districts or to acquire historic properties to satisfy Federal space needs, unless such regulations, policies, and procedures are designed to protect human health and safety or the environment. Federal agencies are encouraged to seek the assistance of the Advisory Council on Historic Preservation when taking these steps.

SEC. 4. *Improving Preservation Partnerships.* In carrying out the authorities of the National Historic Preservation Act, the Secretary of the Interior, the Advisory

Council on Historic Preservation, and each Federal agency shall seek appropriate partnerships with States, local governments, Indian tribes, and appropriate private organizations with the goal of enhancing participation of these parties in the National Historic Preservation Program. Such partnerships should embody the principles of administrative flexibility, reduced paperwork, and increased service to the public.

SEC. 5. *Judicial Review.* This order is not intended to create, nor does it create, any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies or instrumentalities, its officers or employees, or any other person.

WILLIAM J. CLINTON.

§3307. Congressional approval of proposed projects

(a) RESOLUTIONS REQUIRED BEFORE APPROPRIATIONS MAY BE MADE.—The following appropriations may be made only if the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives adopt resolutions approving the purpose for which the appropriation is made:

(1) An appropriation to construct, alter, or acquire any building to be used as a public building which involves a total expenditure in excess of \$1,500,000, so that the equitable distribution of public buildings throughout the United States with due regard for the comparative urgency of need for the buildings, except as provided in section 3305(b) of this title, is ensured.

(2) An appropriation to lease any space at an average annual rental in excess of \$1,500,000 for use for public purposes.

(3) An appropriation to alter any building, or part of the building, which is under lease by the Federal Government for use for a public purpose if the cost of the alteration will exceed \$750,000.

(b) TRANSMISSION TO CONGRESS OF PROSPECTUS OF PROPOSED PROJECT.—To secure consideration for the approval referred to in subsection (a), the Administrator of General Services shall transmit to Congress a prospectus of the proposed facility, including—

(1) a brief description of the building to be constructed, altered, or acquired, or the space to be leased, under this chapter;

(2) the location of the building or space to be leased and an estimate of the maximum cost to the Government of the facility to be constructed, altered, or acquired, or the space to be leased;

(3) a comprehensive plan for providing space for all Government officers and employees in the locality of the proposed facility or the space to be leased, having due regard for suitable space which may continue to be available in existing Government-owned or occupied buildings, especially those buildings that enhance the architectural, historical, social, cultural, and economic environment of the locality;

(4) with respect to any project for the construction, alteration, or acquisition of any building, a statement by the Administrator that suitable space owned by the Government is not available and that suitable rental space is not available at a price commensurate with

that to be afforded through the proposed action;

(5) a statement by the Administrator of the economic and other justifications for not acquiring a building identified to the Administrator under section 3303(c) of this title as suitable for the public building needs of the Government;

(6) a statement of rents and other housing costs currently being paid by the Government for federal agencies to be housed in the building to be constructed, altered, or acquired, or the space to be leased; and

(7) with respect to any prospectus for the construction, alteration, or acquisition of any building or space to be leased, an estimate of the future energy performance of the building or space and a specific description of the use of energy efficient and renewable energy systems, including photovoltaic systems, in carrying out the project.

(c) **INCREASE OF ESTIMATED MAXIMUM COST.**—The estimated maximum cost of any project approved under this section as set forth in any prospectus may be increased by an amount equal to any percentage increase, as determined by the Administrator, in construction or alteration costs from the date the prospectus is transmitted to Congress. The increase authorized by this subsection may not exceed 10 percent of the estimated maximum cost.

(d) **RESCISSION OF APPROVAL.**—If an appropriation is not made within one year after the date a project for construction, alteration, or acquisition is approved under subsection (a), the Committee on Environment and Public Works of the Senate or the Committee on Transportation and Infrastructure of the House of Representatives by resolution may rescind its approval before an appropriation is made.

(e) **EMERGENCY LEASES BY THE ADMINISTRATOR.**—This section does not prevent the Administrator from entering into emergency leases during any period declared by the President to require emergency leasing authority. An emergency lease may not be for more than 180 days without approval of a prospectus for the lease in accordance with subsection (a).

(f) **MINIMUM PERFORMANCE REQUIREMENTS FOR LEASED SPACE.**—With respect to space to be leased, the Administrator shall include, to the maximum extent practicable, minimum performance requirements requiring energy efficiency and the use of renewable energy.

(g) **LIMITATION ON LEASING CERTAIN SPACE.**—

(1) **IN GENERAL.**—The Administrator may not lease space to accommodate any of the following if the average rental cost of leasing the space will exceed \$1,500,000:

(A) Computer and telecommunications operations.

(B) Secure or sensitive activities related to the national defense or security, except when it would be inappropriate to locate those activities in a public building or other facility identified with the Government.

(C) A permanent courtroom, judicial chamber, or administrative office for any United States court.

(2) **EXCEPTION.**—The Administrator may lease space with respect to which paragraph (1) applies if the Administrator—

(A) decides, for reasons set forth in writing, that leasing the space is necessary to meet requirements which cannot be met in public buildings; and

(B) submits the reasons to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(h) **DOLLAR AMOUNT ADJUSTMENT.**—The Administrator annually may adjust any dollar amount referred to in this section to reflect a percentage increase or decrease in construction costs during the prior calendar year, as determined by the composite index of construction costs of the Department of Commerce. Any adjustment shall be expeditiously reported to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1161; Pub. L. 110-140, title III, § 323(a), (b), Dec. 19, 2007, 121 Stat. 1589, 1590.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|--------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3307(a) | 40:606(a) (1st-3d sentences). | Pub. L. 86-249, § 7(a)-(d), Sept. 9, 1959, 73 Stat. 480; Pub. L. 92-313, § 2(4), June 16, 1972, 86 Stat. 217; Pub. L. 94-541, title I, § 103(1), (2), Oct. 18, 1976, 90 Stat. 2505; Pub. L. 100-678, § 2, 3(a), Nov. 17, 1988, 102 Stat. 4049; Pub. L. 103-437, § 14(b)(1), Nov. 2, 1994, 108 Stat. 4590. |
| 3307(b) | 40:606(a) (last sentence). | |
| 3307(c) | 40:606(b). | |
| 3307(d) | 40:606(c). | |
| 3307(e) | 40:606(d). | |
| 3307(f) | 40:606(e). | Pub. L. 86-249, § 7(e), as added Pub. L. 100-678, § 3(b), Nov. 17, 1988, 102 Stat. 4049. |
| 3307(g) | 40:606(f) (related to this section). | Pub. L. 86-249, § 7(f) (related to this section), Sept. 9, 1959, as added Pub. L. 100-678, § 4, Nov. 17, 1988, 102 Stat. 4050. |

In this section, the words “Transportation and Infrastructure” are substituted for “Public Works and Transportation” in section 7 of the Public Buildings Act of 1959 (Public Law 86-249, 73 Stat. 480) because of section 1(a)(9) of the Act of June 3, 1995 (Public Law 104-14, 2:21 note prec.). The word “purchase” is omitted as being included in “acquire”.

In subsection (c), the words “if any” and “as the case may be” are omitted as unnecessary.

In subsection (d), the words “at any time thereafter” are omitted as unnecessary.

In subsection (f)(2)(A), the word “first” is omitted as unnecessary.

AMENDMENTS

2007—Subsec. (b)(7). Pub. L. 110-140, § 323(a), added par. (7).

Subsecs. (f) to (h). Pub. L. 110-140, § 323(b), added subsec. (f) and redesignated former subsecs. (f) and (g) as (g) and (h), respectively.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

§ 3308. Architectural or engineering services

(a) **EMPLOYMENT BY ADMINISTRATOR.**—When the Administrator of General Services decides it to be necessary, the Administrator may employ, by contract or otherwise, without regard to chapters 33 and 51 and subchapter III of chapter 53 of title 5, civil service rules and regulations, or section 6101(b) to (d) of title 41, the services of established architectural or engineering corporations, firms, or individuals, to the extent the Administrator may require those services for any public building authorized to be constructed or altered under this chapter.

(b) **EMPLOYMENT ON PERMANENT BASIS NOT PERMITTED.**—A corporation, firm, or individual shall not be employed under authority of subsection (a) on a permanent basis.

(c) **RESPONSIBILITY OF ADMINISTRATOR.**—Notwithstanding any other provision of this section, the Administrator is responsible for all construction authorized by this chapter, including the interpretation of construction contracts, approval of material and workmanship supplied under a construction contract, approval of changes in the construction contract, certification of vouchers for payments due the contractor, and final settlement of the contract.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1163; Pub. L. 111–350, § 5(l)(17), Jan. 4, 2011, 124 Stat. 3852.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|---------------------------------------------------|
| 3308(a) | 40:609(a). | Pub. L. 86–249, §10, Sept. 9, 1959, 73 Stat. 481. |
| 3308(b) | 40:609(b). | |
| 3308(c) | 40:609(c). | |

In subsection (a), the words “chapters 33 and 51 and subchapter III of chapter 53 of title 5” are substituted for “the Classification Act of 1949, as amended” and the reference to civil service laws in section 10(a) of the Public Buildings Act of 1959 (Public Law 86–249, 73 Stat. 481) because of section 7(b) of the Act of September 6, 1966 (Public Law 89–554, 80 Stat. 631), the first section of which enacted Title 31, United States Code.

AMENDMENTS

2011—Subsec. (a). Pub. L. 111–350 substituted “section 6101(b) to (d) of title 41” for “section 3709 of the Revised Statutes (41 U.S.C. 5)”.

§ 3309. Buildings and sites in the District of Columbia

(a) **IN GENERAL.**—The purposes of this chapter shall be carried out in the District of Columbia as nearly as may be practicable in harmony with the plan of Peter Charles L’Enfant. Public buildings shall be constructed or altered to combine architectural beauty with practical utility.

(b) **CLOSING OF STREETS AND ALLEYS.**—When the Administrator of General Services decides that constructing or altering a public building under this chapter in the District of Columbia requires using contiguous squares as a site for the building, parts of streets that lie between the squares, and alleys that intersect the squares, may be closed and vacated if agreed to by the Administrator, the Council of the District of Columbia, and the National Capital Planning Commission. Those streets and alleys become part of the site.

(c) **CONSULTATIONS PRIOR TO ACQUISITIONS.**—

(1) **WITH HOUSE OFFICE BUILDING COMMISSION.**—The Administrator must consult with the House Office Building Commission created by the Act of March 4, 1907 (ch. 2918, 34 Stat. 1365), before the Administrator may acquire land located south of Independence Avenue, between Third Street SW and Eleventh Street SE, in the District of Columbia, for use as a site or an addition to a site.

(2) **WITH ARCHITECT OF CAPITOL.**—The Administrator must consult with the Architect of the Capitol before the Administrator may acquire land located in the area extending from the United States Capitol Grounds to Eleventh Street NE and SE and bounded by Independence Avenue on the south and G Street NE on the north, in the District of Columbia, for use as a site or an addition to a site.

(d) **CONTRACTS FOR EVENTS IN STADIUM.**—Notwithstanding the District of Columbia Stadium Act of 1957 (Public Law 85–300, 71 Stat. 619) or any other provision of law, the Armory Board may make contracts to conduct events in Robert F. Kennedy Stadium.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1163.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|-------------------------------------------------------------------------------------------------------------|
| 3309(a) | 40:607(a). | Pub. L. 86–249, §8(a), (b), Sept. 9, 1959, 73 Stat. 481; Pub. L. 87–476, §§1, 2, June 8, 1962, 76 Stat. 92. |
| 3309(b) | 40:607(b). | |
| 3309(c) | 40:607(c). | Pub. L. 86–249, §8(c), Sept. 9, 1959, as added Pub. L. 87–476, §3, June 8, 1962, 76 Stat. 92. |
| 3309(d) | 40:607(d). | Pub. L. 86–249, §8(d), Sept. 9, 1959, as added Pub. L. 93–72, July 10, 1973, 87 Stat. 169. |

In subsection (b), the words “Council of the District of Columbia” are substituted for “Board of Commissioners of the District of Columbia” [subsequently changed to “District of Columbia Council” because of section 402(431) of Reorganization Plan No. 3 of 1967 (eff. Aug. 11, 1967, 81 Stat. 951)] in section 8(b) of the Public Buildings Act of 1959 (Public Law 86–249, 73 Stat. 481) because of sections 401 and 404(a) of the District of Columbia Home Rule Act (Public Law 93–198, 87 Stat. 785, 787).

Subsection (d) is substituted for 40:607(d) to eliminate obsolete words.

REFERENCES IN TEXT

The Act of March 4, 1907, referred to in subsec. (c)(1), is act Mar. 4, 1907, ch. 2918, 34 Stat. 1365, as amended, which is classified to section 2001 of Title 2, The Congress.

The District of Columbia Stadium Act of 1957, referred to in subsec. (d), is Pub. L. 85–300, Sept. 7, 1957, 71 Stat. 619, as amended, which is not classified to the Code.

§ 3310. Special rules for leased buildings

For any building to be constructed for lease to, and for predominant use by, the Federal Government, the Administrator of General Services—

(1) notwithstanding section 585(a)(1) of this title, shall not make any agreement or undertake any commitment which will result in the construction of the building until the Admin-

istrator has established detailed specification requirements for the building;

(2) may acquire a leasehold interest in the building only by the use of competitive procedures required by sections 3105, 3301, and 3303 to 3305 of title 41;

(3) shall include in the solicitation for any lease requiring a prospectus under section 3307 an evaluation factor considering the extent to which the offeror will promote energy efficiency and the use of renewable energy;

(4) shall inspect every building during construction to establish that the specifications established for the building are complied with;

(5) on completion of the building, shall evaluate the building to determine the extent of failure to comply with the specifications referred to in clause (1); and

(6) shall ensure that any contract entered into for the building shall contain provisions permitting a reduction of rent during any period when the building is not in compliance with the specifications.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1164; Pub. L. 110–140, title III, §323(d), Dec. 19, 2007, 121 Stat. 1591; Pub. L. 111–350, §5(l)(18), Jan. 4, 2011, 124 Stat. 3852.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|-----------------------------------------------------------------------------------|
| 3310 | 40:618. | Pub. L. 86–249, §20, as added Pub. L. 100–678, §5, Nov. 17, 1988, 102 Stat. 4050. |

AMENDMENTS

2011—Par. (2). Pub. L. 111–350 substituted “sections 3105, 3301, and 3303 to 3305 of title 41” for “section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253)”.

2007—Pars. (3) to (6). Pub. L. 110–140 added par. (3) and redesignated former pars. (3) to (5) as (4) to (6), respectively.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

§ 3311. State administration of criminal and health and safety laws

When the Administrator of General Services considers it desirable, the Administrator may assign to a State or a territory or possession of the United States any part of the authority of the Federal Government to administer criminal laws and health and safety laws with respect to land or an interest in land under the control of the Administrator and located in the State, territory, or possession. Assignment of authority under this section may be accomplished by filing with the chief executive officer of the State, territory, or possession a notice of assignment to take effect on acceptance, or in another manner as may be prescribed by the laws of the State, territory, or possession in which the land or interest is located.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1164.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|-----------------------------------------------------------------------------------|
| 3311 | 40:617. | Pub. L. 86–249, §19, as added Pub. L. 100–678, §5, Nov. 17, 1988, 102 Stat. 4050. |

The words “Notwithstanding any other provision of law” and “commonwealth” are omitted as unnecessary.

§ 3312. Compliance with nationally recognized codes

(a) APPLICATION.—

(1) IN GENERAL.—This section applies to any project for construction or alteration of a building for which amounts are first appropriated for a fiscal year beginning after September 30, 1989.

(2) NATIONAL SECURITY WAIVER.—This section does not apply to a building for which the Administrator of General Services or the head of the federal agency authorized to construct or alter the building decides that the application of this section to the building would adversely affect national security. A decision under this subsection is not subject to administrative or judicial review.

(b) BUILDING CODES.—Each building constructed or altered by the General Services Administration or any other federal agency shall be constructed or altered, to the maximum extent feasible as determined by the Administrator or the head of the federal agency, in compliance with one of the nationally recognized model building codes and with other applicable nationally recognized codes, including electrical codes, fire and life safety codes, and plumbing codes, as the Administrator decides is appropriate. In carrying out this subsection, the Administrator or the head of the federal agency shall use the latest edition of the nationally recognized codes.

(c) ZONING LAWS.—Each building constructed or altered by the Administration or any other federal agency shall be constructed or altered only after consideration of all requirements (except procedural requirements) of the following laws of a State or a political subdivision of a State, which would apply to the building if it were not a building constructed or altered by a federal agency:

(1) Zoning laws.

(2) Laws relating to landscaping, open space, minimum distance of a building from the property line, maximum height of a building, historic preservation, esthetic qualities of a building, and other similar laws.

(d) COOPERATION WITH STATE AND LOCAL OFFICIALS.—

(1) STATE AND LOCAL GOVERNMENT CONSULTATION, REVIEW, AND INSPECTIONS.—To meet the requirements of subsections (b) and (c), the Administrator or the head of the federal agency authorized to construct or alter the building—

(A) in preparing plans for the building, shall consult with appropriate officials of the State or political subdivision of a State, or both, in which the building will be located;

(B) on request shall submit the plans in a timely manner to the officials for review by the officials for a reasonable period of time not exceeding 30 days; and

(C) shall permit inspection by the officials during construction or alteration of the building, in accordance with the customary schedule of inspections for construction or alteration of buildings in the locality, if the officials provide to the Administrator or the head of the federal agency—

(i) a copy of the schedule before construction of the building is begun; and

(ii) reasonable notice of their intention to conduct any inspection before conducting the inspection.

(2) **LIMITATION ON RESPONSIBILITIES.**—This section does not impose an obligation on any State or political subdivision to take any action under paragraph (1).

(e) **STATE AND LOCAL GOVERNMENT RECOMMENDATIONS.**—Appropriate officials of a State or political subdivision of a State may make recommendations to the Administrator or the head of the federal agency authorized to construct or alter a building concerning measures necessary to meet the requirements of subsections (b) and (c). The officials also may make recommendations to the Administrator or the head of the federal agency concerning measures which should be taken in the construction or alteration of the building to take into account local conditions. The Administrator or the head of the agency shall give due consideration to the recommendations.

(f) **EFFECT OF NONCOMPLIANCE.**—An action may not be brought against the Federal Government and a fine or penalty may not be imposed against the Government for failure to meet the requirements of subsection (b), (c), or (d) or for failure to carry out any recommendation under subsection (e).

(g) **LIMITATION ON LIABILITY.**—The Government and its contractors shall not be required to pay any amount for any action a State or a political subdivision of a State takes to carry out this section, including reviewing plans, carrying out on-site inspections, issuing building permits, and making recommendations.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1165.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|--------------------------------------------------------------------------------------------|
| 3312(a)(1) | 40:619(g). | Pub. L. 86–249, §21, as added Pub. L. 100–678, §6(a), Nov. 17, 1988, 102 Stat. 4051. |
| 3312(a)(2) | 40:619(h). | |
| 3312(b) | 40:619(a). | |
| 3312(c) | 40:619(b). | |
| 3312(d) | 40:619(c). | |
| 3312(e) | 40:619(d). | |
| 3312(f) | 40:619(e). | |
| 3312(g) | 40:619(f). | |

§ 3313. Use of energy efficient lighting fixtures and bulbs

(a) **CONSTRUCTION, ALTERATION, AND ACQUISITION OF PUBLIC BUILDINGS.**—Each public building constructed, altered, or acquired by the Administrator of General Services shall be equipped, to the maximum extent feasible as determined by

the Administrator, with lighting fixtures and bulbs that are energy efficient.

(b) **MAINTENANCE OF PUBLIC BUILDINGS.**—Each lighting fixture or bulb that is replaced by the Administrator in the normal course of maintenance of public buildings shall be replaced, to the maximum extent feasible, with a lighting fixture or bulb that is energy efficient.

(c) **CONSIDERATIONS.**—In making a determination under this section concerning the feasibility of installing a lighting fixture or bulb that is energy efficient, the Administrator shall consider—

(1) the life-cycle cost effectiveness of the fixture or bulb;

(2) the compatibility of the fixture or bulb with existing equipment;

(3) whether use of the fixture or bulb could result in interference with productivity;

(4) the aesthetics relating to use of the fixture or bulb; and

(5) such other factors as the Administrator determines appropriate.

(d) **ENERGY STAR.**—A lighting fixture or bulb shall be treated as being energy efficient for purposes of this section if—

(1) the fixture or bulb is certified under the Energy Star program established by section 324A of the Energy Policy and Conservation Act (42 U.S.C. 6294a);

(2) in the case of all light-emitting diode (LED) luminaires, lamps, and systems whose efficacy (lumens per watt) and Color Rendering Index (CRI) meet the Department of Energy requirements for minimum luminaire efficacy and CRI for the Energy Star certification, as verified by an independent third-party testing laboratory that the Administrator and the Secretary of Energy determine conducts its tests according to the procedures and recommendations of the Illuminating Engineering Society of North America, even if the luminaires, lamps, and systems have not received such certification; or

(3) the Administrator and the Secretary of Energy have otherwise determined that the fixture or bulb is energy efficient.

(e) **ADDITIONAL ENERGY EFFICIENT LIGHTING DESIGNATIONS.**—The Administrator of the Environmental Protection Agency and the Secretary of Energy shall give priority to establishing Energy Star performance criteria or Federal Energy Management Program designations for additional lighting product categories that are appropriate for use in public buildings.

(f) **GUIDELINES.**—The Administrator shall develop guidelines for the use of energy efficient lighting technologies that contain mercury in child care centers in public buildings.

(g) **APPLICABILITY OF BUY AMERICAN ACT.**—Acquisitions carried out pursuant to this section shall be subject to the requirements of the Buy American Act¹ (41 U.S.C. 10c et seq.).

(h) **EFFECTIVE DATE.**—The requirements of subsections (a) and (b) shall take effect 1 year after the date of enactment of this subsection.

(Added Pub. L. 110–140, title III, §323(c)(1)(B), Dec. 19, 2007, 121 Stat. 1590.)

¹ See References in Text note below.

REFERENCES IN TEXT

The Buy American Act, referred to in subsec. (g), is title III of act Mar. 3, 1933, ch. 212, 47 Stat. 1520, which was classified generally to sections 10a, 10b, and 10c of former Title 41, Public Contracts, and was substantially repealed and restated in chapter 83 (§8301 et seq.) of Title 41, Public Contracts, by Pub. L. 111-350, §§3, 7(b), Jan. 4, 2011, 124 Stat. 3677, 3855. For complete classification of this Act to the Code, see Short Title of 1933 Act note set out under section 101 of Title 41 and Tables. For disposition of sections of former Title 41, see Disposition Table preceding section 101 of Title 41.

The date of enactment of this subsection, referred to in subsec. (h), is the date of enactment of Pub. L. 110-140, which was approved Dec. 19, 2007.

PRIOR PROVISIONS

A prior section 3313 was renumbered section 3314 of this title.

EFFECTIVE DATE

Section effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as a note under section 1824 of Title 2, The Congress.

§ 3314. Delegation

(a) WHEN ALLOWED.—The carrying out of the duties and powers of the Administrator of General Services under this chapter, in accordance with standards the Administrator prescribes—

(1) shall, except for the authority contained in section 3305(b) of this title, be delegated on request to the appropriate executive agency when the estimated cost of the project does not exceed \$100,000; and

(2) may be delegated to the appropriate executive agency when the Administrator determines that delegation will promote efficiency and economy.

(b) NO EXEMPTION FROM OTHER PROVISIONS OF CHAPTER.—Delegation under subsection (a) does not exempt the person to whom the delegation is made, or the carrying out of the delegated duty or power, from any other provision of this chapter.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1166, §3313; Pub. L. 109-304, §17(g)(3), Oct. 6, 2006, 120 Stat. 1709; renumbered §3314, Pub. L. 110-140, title III, §323(c)(1)(A), Dec. 19, 2007, 121 Stat. 1590.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|-------------------------|---------------------------------------------------|
| 3313(a) | 40:614 (1st sentence). | Pub. L. 86-249, §15, Sept. 9, 1959, 73 Stat. 483. |
| 3313(b) | 40:614 (last sentence). | |

In subsection (a), before clause (1), the words “duties and powers” are substituted for “responsibilities and authorities” for consistency in the revised title and with other titles of the United States Code.

PRIOR PROVISIONS

A prior section 3314 was renumbered section 3315 of this title.

AMENDMENTS

2007—Pub. L. 110-140 renumbered section 3313 of this title as this section.

2006—Subsec. (a). Pub. L. 109-304 substituted “The” for “Except for the authority contained in section 3305(b) of this title, the” in introductory provisions and

“shall, except for the authority contained in section 3305(b) of this title,” for “shall” in par. (1).

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

§ 3315. Report to Congress

(a) REQUEST BY EITHER HOUSE OF CONGRESS OR ANY COMMITTEE.—Within a reasonable time after a request of either House of Congress or any committee of Congress, the Administrator of General Services shall submit a report showing the location, space, cost, and status of each public building the construction, alteration, or acquisition of which—

(1) is to be under authority of this chapter; and

(2) was uncompleted as of the date of the request, or as of another date the request may designate.

(b) REQUEST OF COMMITTEE ON PUBLIC WORKS AND ENVIRONMENT OR COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE.—The Administrator and the United States Postal Service shall make building project surveys requested by resolution by the Committee on Environment and Public Works of the Senate or the Committee on Transportation and Infrastructure of the House of Representatives, and within a reasonable time shall make a report on the survey to Congress. The report shall contain all other information required to be included in a prospectus of the proposed public building project under section 3307(b) of this title.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1166, §3314; renumbered §3315, Pub. L. 110-140, title III, §323(c)(1)(A), Dec. 19, 2007, 121 Stat. 1590.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3314(a) | 40:610(a). | Pub. L. 86-249, §11, Sept. 9, 1959, 73 Stat. 481; Pub. L. 96-470, title II, §211, Oct. 19, 1980, 94 Stat. 2246; Pub. L. 103-437, §14(b)(2), Nov. 2, 1994, 108 Stat. 4591. |
| 3314(b) | 40:610(b). | |

In subsection (b), the words “United States Postal Service” are substituted for “Postmaster General” in section 11(b) of the Public Buildings Act of 1959 (Public Law 86-249, 73 Stat. 481) because of section 4(a) of the Postal Reorganization Act (Public Law 91-375, 84 Stat. 773). The words “Transportation and Infrastructure” are substituted for “Public Works and Transportation” in section 11(b) because of section 1(a)(9) of the Act of June 3, 1995 (Public Law 104-14, 2:21 note prec.).

PRIOR PROVISIONS

A prior section 3315 was renumbered section 3316 of this title.

AMENDMENTS

2007—Pub. L. 110-140 renumbered section 3314 of this title as this section.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110-140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

§ 3316. Certain authority not affected

This chapter does not limit or repeal the authority conferred by law on the United States Postal Service.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1167, § 3315; renumbered § 3316, Pub. L. 110–140, title III, § 323(c)(1)(A), Dec. 19, 2007, 121 Stat. 1590.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|------------------------------------------------------------------------------------------------------------|
| 3315 | 40:615. | Pub. L. 86–249, § 16, Sept. 9, 1959, 73 Stat. 483; Pub. L. 91–375, § 6(m)(3), Aug. 12, 1970, 84 Stat. 782. |

The text of 40:615(1) is omitted as obsolete.

AMENDMENTS

2007—Pub. L. 110–140 renumbered section 3315 of this title as this section.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110–140 effective on the date that is 1 day after Dec. 19, 2007, see section 1601 of Pub. L. 110–140, set out as an Effective Date note under section 1824 of Title 2, The Congress.

CHAPTER 35—NON-FEDERAL PUBLIC WORKS

| | |
|-------|--------------------------------------|
| Sec. | |
| 3501. | Definitions. |
| 3502. | Planned public works. |
| 3503. | Revolving fund. |
| 3504. | Surveys of public works planning. |
| 3505. | Forgiveness of outstanding advances. |

§ 3501. Definitions

In this chapter, the following definitions apply:

(1) **PUBLIC AGENCY.**—The term “public agency” means a State or a public agency or political subdivision of a State.

(2) **PUBLIC WORKS.**—The term “public works” includes any public works other than housing.

(3) **STATE.**—The term “State” means a State of the United States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, the Federated States of Micronesia, the Marshall Islands, Palau, and any territory or possession of the United States.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1167.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3501 | 40:460. | Aug. 2, 1954, ch. 649, title VII, § 703, 68 Stat. 641; Pub. L. 90–19, § 10(d), May 25, 1967, 81 Stat. 22; Pub. L. 93–383, title IV, § 401(c), Aug. 22, 1974, 88 Stat. 691. |

In this section, the text of 40:460(2) is omitted as unnecessary because the complete name of the Secretary of Housing and Urban Development is used the first time the term appears in a section.

In clause (1), the words “or ‘public agencies’” are omitted as unnecessary because of 1:1.

In clause (3), the words “Guam, the Virgin Islands” are added to clarify that the provisions of the source law apply to those jurisdictions. The words “the Northern Mariana Islands, the Federated States of Micronesia, the Marshall Islands, Palau” are substituted for

“the Trust Territory of the Pacific Islands” because of the termination of the Trust Territory of the Pacific Islands. See 48:1681 note prec.

§ 3502. Planned public works

(a) **ADVANCES TO ENSURE PLANNING.**—Notwithstanding section 3324(a) and (b) of title 31, the Secretary of Housing and Urban Development may make advances to public agencies and Indian tribes—

(1) to encourage public agencies and Indian tribes to maintain at all times a current and adequate reserve of planned public works the construction of which can rapidly be commenced, particularly when the national or local economic situation makes that action desirable; and

(2) to help attain maximum economy and efficiency in the planning and construction of public works.

(b) **USES OF ADVANCES.**—A public agency or Indian tribe shall use an advance under subsection (a) to aid in financing the cost of feasibility studies, engineering and architectural surveys, designs, plans, working drawings, specifications, or other action preliminary to and in preparation for the construction of public works, and for construction in connection with the development of a medical center, a general plan for the development of the center.

(c) **NO FUTURE COMMITMENT.**—An advance under subsection (a) does not commit the Congress to appropriate amounts to assist in financing the construction of any public works planned with the aid of that advance. Outstanding advances to public agencies and Indian tribes in a State shall not exceed 12.5 percent of the aggregate then authorized to be appropriated to the revolving fund established under section 3503 of this title.

(d) **REQUIREMENTS FOR ADVANCES.**—An advance shall not be made under subsection (a) for an individual project (including a regional, metropolitan, or other areawide project) unless—

(1) the project is planned to be constructed within or over a reasonable period of time considering the nature of the project;

(2) the project conforms to an overall state, local, or regional plan approved by a competent state, local, or regional authority; and

(3) the public agency or Indian tribe formally contracts with the Federal Government to complete the plan preparation promptly and to repay part or all of the advance when due.

(e) **REGULATIONS.**—The Secretary may prescribe regulations to carry out this chapter.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1167.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3502 | 40:462(a), (b), (d). | Aug. 2, 1954, ch. 649, title VII, § 702(a), (b), (d), 68 Stat. 641; Aug. 11, 1955, ch. 783, title I, § 112, 69 Stat. 641; Pub. L. 87-70, title V, § 502(1), (2), June 30, 1961, 75 Stat. 175; Pub. L. 88-560, title VI, § 602(a)–(c), (e), (f), Sept. 2, 1964, 78 Stat. 799; Pub. L. 90-19, § 10(a) (related to 40:462), May 25, 1967, 81 Stat. 22; Pub. L. 90-448, title VI, § 607, Aug. 1, 1968, 82 Stat. 534; Pub. L. 100-242, title V, § 524(1), Feb. 5, 1988, 101 Stat. 1939. |

In subsection (a), the words “section 3324(a) and (b) of title 31” are substituted for “section 3648 of the Revised Statutes, as amended” in section 702(a) of the Housing Act of 1954 (ch. 649, 68 Stat. 641) because of section 4(b) of the Act of September 13, 1982 (Public Law 97-258, 96 Stat. 1067), the first section of which enacted Title 31, United States Code. The words “municipalities and other” are omitted as being included in “public agencies”.

In subsection (c), the words “in any way” are omitted as unnecessary.

In subsection (e), the word “rules” is omitted as being included in “regulations”.

§ 3503. Revolving fund

(a) ESTABLISHMENT.—There is a revolving fund established by the Secretary of Housing and Urban Development to provide amounts for advances under this chapter. The fund comprises amounts appropriated under this chapter and all repayments and other receipts received in connection with advances made under this chapter.

(b) AUTHORIZATIONS.—Not more than \$70,000,000 may be appropriated to the revolving fund as necessary to carry out the purposes of this chapter.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1168.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3503 | 40:462(e). | Aug. 2, 1954, ch. 649, title VII, § 702(e), 68 Stat. 641; Aug. 11, 1955, ch. 783, title I, § 112, 69 Stat. 641; Pub. L. 87-70, title V, § 502(3), (4), June 30, 1961, 75 Stat. 175; Pub. L. 88-560, title VI, § 602(a), Sept. 2, 1964, 78 Stat. 799; Pub. L. 89-117, title XI, § 1104, Aug. 10, 1965, 79 Stat. 503; Pub. L. 90-19, § 10(a) (related to 40:462), May 25, 1967, 81 Stat. 22. |

In subsection (a), the words “heretofore or hereafter” are omitted as unnecessary. The text of 40:462(e)(2) is omitted as obsolete. Title V of the War Mobilization and Reconversion Act of 1944 (50 App.:1671) terminated on June 30, 1947. The Act of October 13, 1949 (40:451 et seq.) authorized the Housing and Home Finance Administrator to make certain loans and advances for the 2-year period immediately following October 13, 1951.

In subsection (b), the words “in addition to amounts authorized to be appropriated for the purposes of this section before September 2, 1964” are omitted as executed.

§ 3504. Surveys of public works planning

The Secretary of Housing and Urban Development may use during a fiscal year not more

than \$100,000 of the amount in the revolving fund established under section 3503 of this title to conduct surveys of the status and current volume of state and local public works planning and surveys of estimated requirements for state and local public works. In conducting a survey, the Secretary, may use or act through any department or agency of the Federal Government, with the consent of the department or agency.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1168.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3504 | 40:462(f). | Aug. 2, 1954, ch. 649, title VII, § 702(f), as added Pub. L. 86-372, title VIII, § 801, Sept. 23, 1959, 73 Stat. 686; Pub. L. 88-560, title VI, § 602(d), Sept. 2, 1964, 78 Stat. 799; Pub. L. 90-19, § 10(a) (related to 40:462), May 25, 1967, 81 Stat. 22. |

§ 3505. Forgiveness of outstanding advances

In accordance with accounting and other procedures the Secretary of Housing and Urban Development prescribes, each advance made by the Secretary under this chapter that had any principal amount outstanding on February 5, 1988, was forgiven. The terms and conditions of any contract, or any amendment to a contract, for that advance with respect to any promise to repay the advance were canceled.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1168.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3505 | 40:462(g). | Aug. 2, 1954, ch. 649, title VII, § 702(g), as added Pub. L. 87-658, § 6, Sept. 14, 1962, 76 Stat. 544; Pub. L. 100-242, title V, § 524(2), Feb. 5, 1988, 101 Stat. 1939. |

CHAPTER 37—CONTRACT WORK HOURS AND SAFETY STANDARDS

| | |
|-------|----------------------------------------------------------------------------------------------|
| Sec. | |
| 3701. | Definition and application. |
| 3702. | Work hours. |
| 3703. | Report of violations and withholding of amounts for unpaid wages and liquidated damages. |
| 3704. | Health and safety standards in building trades and construction industry. |
| 3705. | Safety programs. |
| 3706. | Limitations, variations, tolerances, and exemptions. |
| 3707. | Contractor certification or contract clause in acquisition of commercial items not required. |
| 3708. | Criminal penalties. |

§ 3701. Definition and application

(a) DEFINITION.—In this chapter, the term “Federal Government” has the same meaning that the term “United States” had in the Contract Work Hours and Safety Standards Act (Public Law 87-581, 76 Stat. 357).

(b) APPLICATION.—

(1) CONTRACTS.—This chapter applies to—

(A) any contract that may require or involve the employment of laborers or me-

chanics on a public work of the Federal Government, a territory of the United States, or the District of Columbia; and

(B) any other contract that may require or involve the employment of laborers or mechanics if the contract is one—

(i) to which the Government, an agency or instrumentality of the Government, a territory, or the District of Columbia is a party;

(ii) which is made for or on behalf of the Government, an agency or instrumentality, a territory, or the District of Columbia; or

(iii) which is a contract for work financed at least in part by loans or grants from, or loans insured or guaranteed by, the Government or an agency or instrumentality under any federal law providing wage standards for the work.

(2) **LABORERS AND MECHANICS.**—This chapter applies to all laborers and mechanics employed by a contractor or subcontractor in the performance of any part of the work under the contract—

(A) including watchmen, guards, and workers performing services in connection with dredging or rock excavation in any river or harbor of the United States, a territory, or the District of Columbia; but

(B) not including an employee employed as a seaman.

(3) **EXCEPTIONS.**—

(A) **THIS CHAPTER.**—This chapter does not apply to—

(i) a contract for—

(I) transportation by land, air, or water;

(II) the transmission of intelligence; or

(III) the purchase of supplies or materials or articles ordinarily available in the open market;

(ii) any work required to be done in accordance with the provisions of chapter 65 of title 41; and

(iii) a contract in an amount that is not greater than \$100,000.

(B) **SECTION 3702.**—Section 3702 of this title does not apply to work where the assistance described in paragraph (1)(B)(iii) from the Government or an agency or instrumentality is only a loan guarantee or insurance.

(Pub. L. 107-217, Aug. 21, 2002, 116 Stat. 1169; Pub. L. 109-284, § 6(14), Sept. 27, 2006, 120 Stat. 1213; Pub. L. 111-350, § 5(l)(19), Jan. 4, 2011, 124 Stat. 3852.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|----------------------------------------|---------------------------------------------------------------------------------------------------------------------|
| 3701(a) | (no source). | |
| 3701(b)(1) | 40:329(a) (1st sentence less proviso). | Pub. L. 87-581, title I, § 103(a), (b), Aug. 13, 1962, 76 Stat. 358. |
| 3701(b)(2) | 40:329(a) (last sentence). | |
| 3701(b)(3) | 40:329(b). | |
| (A)(i), (ii). | | |
| 3701(b)(3) | 40:329(c). | Pub. L. 87-581, title I, § 103(c), as added Pub. L. 103-355, title IV, § 4104(c)(1), Oct. 13, 1994, 108 Stat. 3342. |
| (A)(iii). | | |

HISTORICAL AND REVISION NOTES—CONTINUED

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|-----------------------------------|-----------------------------------|
| 3701(b)(3)(B) | 40:329(a) (1st sentence proviso). | |

Subsection (a) is added for clarity.

In subsection (b)(1), before clause (A), the words “except as otherwise provided” are omitted as unnecessary.

In subsection (b)(2), before clause (A), the words “Except as otherwise expressly provided” are omitted as unnecessary.

In subsection (b)(3)(A)(ii), the words “Walsh-Healey Act” are substituted for “[“]Walsh-Healey Public Contracts Act” to use the correct short title of the Act.

REFERENCES IN TEXT

The Contract Work Hours and Safety Standards Act, referred to in subsec. (a), is title I of Pub. L. 87-581, Aug. 13, 1962, 76 Stat. 357, as amended, which was classified generally to subchapter II (§ 327 et seq.) of chapter 5 of former Title 40, Public Buildings, Property, and Works, prior to repeal and reenactment as this chapter by Pub. L. 107-217, §§ 1, 6(b), Aug. 21, 2002, 116 Stat. 1062, 1304. Section 101 of title I of Pub. L. 87-581 was classified to section 327 of former Title 40 and was repealed and not reenacted by Pub. L. 107-217. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2011—Subsec. (b)(3)(A)(ii). Pub. L. 111-350 substituted “chapter 65 of title 41” for “the Walsh-Healey Act (41 U.S.C. 35 et seq.)”.

2006—Subsec. (b)(3)(B). Pub. L. 109-284 substituted “3702” for “3902” in heading and text and “paragraph (1)(B)(iii)” for “subsection (a)(2)(C)” in text.

§ 3702. Work hours

(a) **STANDARD WORKWEEK.**—The wages of every laborer and mechanic employed by any contractor or subcontractor in the performance of work on a contract described in section 3701 of this title shall be computed on the basis of a standard workweek of 40 hours. Work in excess of the standard workweek is permitted subject to this section. For each workweek in which the laborer or mechanic is so employed, wages include compensation, at a rate not less than one and one-half times the basic rate of pay, for all hours worked in excess of 40 hours in the workweek.

(b) **CONTRACT REQUIREMENTS.**—A contract described in section 3701 of this title, and any obligation of the Federal Government, a territory of the United States, or the District of Columbia in connection with that contract, must provide that—

(1) a contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall not require or permit any laborer or mechanic, in any workweek in which the laborer or mechanic is employed on that work, to work more than 40 hours in that workweek, except as provided in this chapter; and

(2) when a violation of clause (1) occurs, the contractor and any subcontractor responsible for the violation are liable—

(A) to the affected employee for the employee’s unpaid wages; and

(B) to the Government, the District of Columbia, or a territory for liquidated damages as provided in the contract.

(c) **LIQUIDATED DAMAGES.**—Liquidated damages under subsection (b)(2)(B) shall be computed for each individual employed as a laborer or mechanic in violation of this chapter and shall be equal to \$10 for each calendar day on which the individual was required or permitted to work in excess of the standard workweek without payment of the overtime wages required by this chapter.

(d) **AMOUNTS WITHHELD TO SATISFY LIABILITIES.**—Subject to section 3703 of this title, the governmental agency for which the contract work is done or which is providing financial assistance for the work may withhold, or have withheld, from money payable because of work performed by a contractor or subcontractor, amounts administratively determined to be necessary to satisfy the liabilities of the contractor or subcontractor for unpaid wages and liquidated damages as provided in this section.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1169; Pub. L. 109–284, § 6(15), Sept. 27, 2006, 120 Stat. 1213.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|--------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------|
| 3702(a) | 40:328(a). | Pub. L. 87–581, title I, § 102, Aug. 13, 1962, 76 Stat. 357; Pub. L. 99–145, title XII, § 1241(a), Nov. 8, 1985, 99 Stat. 734. |
| 3702(b) | 40:328(b) (words before (1)), (1), (2) (1st sentence). | |
| 3702(c) | 40:328(b)(2) (2d sentence). | |
| 3702(d) | 40:328(b)(2) (last sentence). | |

In subsection (a), the words “Notwithstanding any other provision of law” are omitted as unnecessary.

AMENDMENTS

2006—Subsec. (d). Pub. L. 109–284 substituted “To” for “to” in heading.

§ 3703. Report of violations and withholding of amounts for unpaid wages and liquidated damages

(a) **REPORTS OF INSPECTORS.**—An officer or individual designated as an inspector of the work to be performed under a contract described in section 3701 of this title, or to aid in the enforcement or fulfillment of the contract, on observation or after investigation immediately shall report to the proper officer of the Federal Government, a territory of the United States, or the District of Columbia all violations of this chapter occurring in the performance of the work, together with the name of each laborer or mechanic who was required or permitted to work in violation of this chapter and the day the violation occurred.

(b) **WITHHOLDING AMOUNTS.**—

(1) **DETERMINING AMOUNT.**—The amount of unpaid wages and liquidated damages owing under this chapter shall be determined administratively.

(2) **AMOUNT DIRECTED TO BE WITHHELD.**—The officer or individual whose duty it is to approve the payment of money by the Government, territory, or District of Columbia in connection with the performance of the contract work shall direct the amount of—

(A) liquidated damages to be withheld for the use and benefit of the Government, territory, or District; and

(B) unpaid wages to be withheld for the use and benefit of the laborers and mechanics who were not compensated as required under this chapter.

(3) **PAYMENT.**—The Comptroller General shall pay the amount administratively determined to be due directly to the laborers and mechanics from amounts withheld on account of underpayments of wages if the amount withheld is adequate. If the amount withheld is not adequate, the Comptroller General shall pay an equitable proportion of the amount due.

(c) **RIGHT OF ACTION AND INTERVENTION AGAINST CONTRACTORS AND SURETIES.**—If the accrued payments withheld under the terms of the contract are insufficient to reimburse all the laborers and mechanics who have not been paid the wages required under this chapter, the laborers and mechanics, in the case of a department or agency of the Government, have the same right of action and intervention against the contractor and the contractor’s sureties as is conferred by law on persons furnishing labor or materials. In those proceedings it is not a defense that the laborers and mechanics accepted or agreed to accept less than the required rate of wages or voluntarily made refunds.

(d) **REVIEW PROCESS.**—

(1) **TIME LIMIT FOR APPEAL.**—Within 60 days after an amount is withheld as liquidated damages, any contractor or subcontractor aggrieved by the withholding may appeal to the head of the agency of the Government or territory for which the contract work is done or which is providing financial assistance for the work, or to the Mayor of the District of Columbia in the case of liquidated damages withheld for the use and benefit of the District.

(2) **REVIEW BY AGENCY HEAD OR MAYOR.**—The agency head or Mayor may review the administrative determination of liquidated damages. The agency head or Mayor may issue a final order affirming the determination or may recommend to the Secretary of Labor that an appropriate adjustment in liquidated damages be made, or that the contractor or subcontractor be relieved of liability for the liquidated damages, if it is found that the amount is incorrect or that the contractor or subcontractor violated this chapter inadvertently, notwithstanding the exercise of due care by the contractor or subcontractor and the agents of the contractor or subcontractor.

(3) **REVIEW BY SECRETARY.**—The Secretary shall review all pertinent facts in the matter and may conduct any investigation the Secretary considers necessary in order to affirm or reject the recommendation. The decision of the Secretary is final.

(4) **JUDICIAL ACTION.**—A contractor or subcontractor aggrieved by a final order for the withholding of liquidated damages may file a claim in the United States Court of Federal Claims within 60 days after the final order. A final order of the agency head, Mayor, or Secretary is conclusive with respect to findings of fact if supported by substantial evidence.

(e) APPLICABILITY OF OTHER LAWS.—

(1) REORGANIZATION PLAN.—Reorganization Plan Numbered 14 of 1950 (eff. May 24, 1950, 64 Stat. 1267) applies to this chapter.

(2) SECTION 3145.—Section 3145 of this title applies to contractors and subcontractors referred to in section 3145 who are engaged in the performance of contracts subject to this chapter.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1170.)

HISTORICAL AND REVISION NOTES

| Revised Section | Source (U.S. Code) | Source (Statutes at Large) |
|-----------------|---------------------------------|------------------------------------------------------------------------------------------------------------------------------|
| 3703(a) | 40:330(a) (1st sentence). | Pub. L. 87–581, title I, §104, Aug. 13, 1962, 76 Stat. 358; Pub. L. 97–164, title I, §160(a)(13), Apr. 2, 1982, 96 Stat. 48. |
| 3703(b) | 40:330(a) (2d, last sentences). | |
| 3703(c) | 40:330(b). | |
| 3703(d) | 40:330(c). | |
| 3703(e) | 40:330(d). | |

In subsection (a), the words “or possession” are omitted for consistency in this chapter. The words “or days” are omitted because of 1:1.

In subsection (c), the word “Mayor” is substituted for “Commissioners” [meaning the Board of Commissioners of the District of Columbia] [subsequently changed to “Commissioner” (meaning the Commissioner of the District of Columbia) because of section 401 of Reorganization Plan No. 3 of 1967 (eff. Nov. 3, 1967, 81 Stat. 951)] because of section 421 of the District of Columbia Home Rule Act (Public Law 93–198, 87 Stat. 789).

In subsection (d)(4), the words “United States Court of Federal Claims” are substituted for “United States Claims Court” because of section 902(b)(1) of the Federal Courts Administration Act of 1992 (Public Law 102–572, 106 Stat. 4516).

REFERENCES IN TEXT

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (e)(1), is Reorg. Plan No. 14 of 1950, eff. May 24, 1950, 15 F.R. 3176, 64 Stat. 1267, which is set out in the Appendix to Title 5, Government Organization and Employees.

§ 3704. Health and safety standards in building trades and construction industry

(a) CONDITION OF CONTRACTS.—

(1) IN GENERAL.—Each contract in an amount greater than \$100,000 that is entered into under legislation subject to Reorganization Plan Numbered 14 of 1950 (eff. May 24, 1950, 64 Stat. 1267) and is for construction, alteration, and repair, including painting and decorating, must provide that no contractor or subcontractor contracting for any part of the contract work shall require any laborer or mechanic employed in the performance of the contract to work in surroundings or under working conditions that are unsanitary, hazardous, or dangerous to health or safety, as established under construction safety and health standards the Secretary of Labor prescribes by regulation based on proceedings pursuant to section 553 of title 5, provided that the proceedings include a hearing similar in nature to that authorized by section 553 of title 5.

(2) CONSULTATION.—In formulating standards under this section, the Secretary shall consult with the Advisory Committee created by subsection (d).

(b) COMPLIANCE.—

(1) ACTIONS TO GAIN COMPLIANCE.—The Secretary may make inspections, hold hearings, issue orders, and make decisions based on findings of fact as the Secretary considers necessary to gain compliance with this section and any health and safety standard the Secretary prescribes under subsection (a). For those purposes the Secretary and the United States district courts have the authority and jurisdiction provided by sections 6506 and 6507 of title 41.

(2) REMEDY WHEN NONCOMPLIANCE FOUND.—When the Secretary, after an opportunity for an adjudicatory hearing by the Secretary, establishes noncompliance under this section of any condition of a contract described in—

(A) section 3701(b)(1)(B)(i) or (ii) of this title, the governmental agency for which the contract work is done may cancel the contract and make other contracts for the completion of the contract work, charging any additional cost to the original contractor; or

(B) section 3701(b)(1)(B)(iii) of this title, the governmental agency which is providing the financial guarantee, assistance, or insurance for the contract work may withhold the guarantee, assistance, or insurance attributable to the performance of the contract.

(3) NONAPPLICABILITY.—Section 3703 of this title does not apply to the enforcement of this section.

(c) REPEATED VIOLATIONS.—

(1) TRANSMITTAL OF NAMES OF REPEAT VIOLATORS TO COMPTROLLER GENERAL.—When the Secretary, after an opportunity for an agency hearing, decides on the record that, by repeated willful or grossly negligent violations of this chapter, a contractor or subcontractor has demonstrated that subsection (b) is not effective to protect the safety and health of the employees of the contractor or subcontractor, the Secretary shall make a finding to that effect and, not sooner than 30 days after giving notice of the finding to all interested persons, shall transmit the name of the contractor or subcontractor to the Comptroller General.

(2) BAN ON AWARDED CONTRACTS.—The Comptroller General shall distribute each name transmitted under paragraph (1) to all agencies of the Federal Government. Unless the Secretary otherwise recommends, the contractor, subcontractor, or any person in which the contractor or subcontractor has a substantial interest may not be awarded a contract subject to this section until three years have elapsed from the date the name is transmitted to the Comptroller General. The Secretary shall terminate the ban if, before the end of the three-year period, the Secretary, after affording interested persons due notice and an opportunity for a hearing, is satisfied that a contractor or subcontractor whose name was transmitted to the Comptroller General will comply responsibly with the requirements of this section. The Comptroller General shall inform all Government agencies after being informed of the Secretary's action.

(3) JUDICIAL REVIEW.—A person aggrieved by the Secretary's action under this subsection or

subsection (b) may file with the appropriate United States court of appeals a petition for review of the Secretary's action within 60 days after receiving notice of the Secretary's action. The clerk of the court immediately shall send a copy of the petition to the Secretary. The Secretary then shall file with the court the record on which the action is based. The findings of fact by the Secretary, if supported by substantial evidence, are final. The court may enter a decree enforcing, modifying, modifying and enforcing, or setting aside any part of, the order of the Secretary or the appropriate Government agency. The judgment of the court may be reviewed by the Supreme Court as provided in section 1254 of title 28.

(d) **ADVISORY COMMITTEE ON CONSTRUCTION SAFETY AND HEALTH.**—

(1) **ESTABLISHMENT.**—There is an Advisory Committee on Construction Safety and Health in the Department of Labor.

(2) **COMPOSITION.**—The Committee is composed of nine members appointed by the Secretary, without regard to chapter 33 of title 5, as follows:

(A) Three members shall be individuals representative of contractors to whom this section applies.

(B) Three members shall be individuals representative of employees primarily in the building trades and construction industry engaged in carrying out contracts to which this section applies.

(C) Three members shall be public representatives who shall be selected on the basis of their professional and technical competence and experience in the construction health and safety field.

(3) **CHAIRMAN.**—The Secretary shall appoint one member as Chairman.

(4) **DUTIES.**—The Committee shall advise the Secretary—

(A) in formulating construction safety and health standards and other regulations; and

(B) on policy matters arising in carrying out this section.

(5) **EXPERTS AND CONSULTANTS.**—The Secretary may appoint special advisory and technical experts or consultants as may be necessary to carry out the functions of the Committee.

(6) **COMPENSATION AND EXPENSES.**—Committee members are entitled to receive compensation at rates the Secretary fixes, but not more than \$100 a day, including traveltime, when performing Committee business, and expenses under section 5703 of title 5.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1172; Pub. L. 109–284, §6(16), (17), Sept. 27, 2006, 120 Stat. 1213; Pub. L. 111–350, §5(l)(20), Jan. 4, 2011, 124 Stat. 3852.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 3704(a) | 40:333(a). | Pub. L. 87–581, title I, §107(a)–(e), as added Pub. L. 91–54, §1, Aug. 9, 1969, 83 Stat. 96; Pub. L. 103–355, title IV, §4104(c)(2), Oct. 13, 1994, 108 Stat. 3342. |

HISTORICAL AND REVISION NOTES—CONTINUED

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|-----------------------------------|
| 3704(b) | 40:333(b), (c). | |
| 3704(c) | 40:333(d). | |
| 3704(d) | 40:333(e). | |

In subsection (a)(1), the words “in an amount greater than \$100,000” are substituted for “(other than a contract referred to in section 329(c) of this title)” for clarity.

In subsection (b), the text of 40:333(c) is omitted as unnecessary because the district courts have jurisdiction on all civil actions involving a federal question since the requirement of a threshold amount in controversy was deleted. In paragraph (2)(B), the words “guarantee” and “insurance” are added for consistency in this section and with section 3701(b)(1)(B)(iii) of the revised title.

In subsection (c)(2), the words “The Secretary shall end the ban” are substituted for “he [sic] shall terminate the application of the preceding sentence to such contractor or subcontractor (and to any person in which the contractor or subcontractor has a substantial interest)” for clarity and to eliminate unnecessary words. The word “thereafter” is omitted as unnecessary.

In subsection (c)(3), the words “as provided in section 2112 of title 28”, “make and”, and “upon certiorari or certification” are omitted as unnecessary.

In subsection (d)(2), before clause (A), the words “chapter 33 of title 5” are substituted for “the civil service laws” because of section 7(b) of the Act of September 6, 1966 (Public Law 89–554, 80 Stat. 631), the first section of which enacted Title 5, United States Code.

In subsection (d)(6), the words “expenses under section 5703 of title 5” are substituted for 40:333(e)(3)(words after semicolon) to eliminate unnecessary words.

REFERENCES IN TEXT

Reorganization Plan Numbered 14 of 1950, referred to in subsec. (a)(1), is Reorg. Plan No. 14 of 1950, eff. May 24, 1950, 15 F.R. 3176, 64 Stat. 1267, which is set out in the Appendix to Title 5, Government Organization and Employees.

AMENDMENTS

2011—Subsec. (b)(1). Pub. L. 111–350 substituted “sections 6506 and 6507 of title 41” for “sections 4 and 5 of the Walsh-Healey Act (41 U.S.C. 38, 39)”.

2006—Subsec. (a)(1). Pub. L. 109–284, §6(16), inserted “of title 5” after “authorized by section 553”.

Subsec. (a)(2). Pub. L. 109–284, §6(17), struck out “of this section” after “subsection (d)”.

TERMINATION OF ADVISORY COMMITTEES

Advisory committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the 2-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. Advisory committees established after Jan. 5, 1973, to terminate not later than the expiration of the 2-year period beginning on the date of their establishment, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such 2-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law. See section 14 of Pub. L. 92–463, Oct. 6, 1972, 86 Stat. 776, set out in the Appendix to Title 5, Government Organization and Employees.

§ 3705. Safety programs

The Secretary of Labor shall—

(1) provide for the establishment and supervision of programs for the education and training of employers and employees in the recognition, avoidance, and prevention of unsafe working conditions in employment covered by this chapter; and

(2) collect reports and data and consult with and advise employers as to the best means of preventing injuries.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1174.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|------------------------------------------------------------------------------------------|
| 3705 | 40:333(f). | Pub. L. 87–581, title I, §107(f), as added Pub. L. 91–54, §1, Aug. 9, 1969, 83 Stat. 98. |

§ 3706. Limitations, variations, tolerances, and exemptions

The Secretary of Labor may provide reasonable limitations to, and may prescribe regulations allowing reasonable variations to, tolerances from, and exemptions from, this chapter that the Secretary may find necessary and proper in the public interest to prevent injustice or undue hardship or to avoid serious impairment of the conduct of Federal Government business.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1174.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|-------------------------------------------------------------|
| 3706 | 40:331. | Pub. L. 87–581, title I, §105, Aug. 13, 1962, 76 Stat. 359. |

§ 3707. Contractor certification or contract clause in acquisition of commercial items not required

In a contract to acquire a commercial item (as defined in section 103 of title 41), a certification by a contractor or a contract clause may not be required to implement a prohibition or requirement in this chapter.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1174; Pub. L. 111–350, § 5(l)(21), Jan. 4, 2011, 124 Stat. 3852.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|---------------------------------------------------------------------------------------------------------------|
| 3707 | 40:334. | Pub. L. 87–581, title I, §108, as added Pub. L. 103–355, title VIII, §8301(b), Oct. 13, 1994, 108 Stat. 3396. |

AMENDMENTS

2011—Pub. L. 111–350 substituted “section 103 of title 41” for “section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403)”.

§ 3708. Criminal penalties

A contractor or subcontractor having a duty to employ, direct, or control a laborer or mechanic employed in the performance of work contemplated by a contract to which this chapter applies that intentionally violates this chapter shall be fined under title 18, imprisoned for not more than six months, or both.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1174.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|-------------------------------------------------------------|
| 3708 | 40:332. | Pub. L. 87–581, title I, §106, Aug. 13, 1962, 76 Stat. 359. |

The words “shall be fined under title 18” are substituted for “shall be deemed guilty of a misdemeanor, and for each and every such offense shall, upon conviction, be punished by a fine of not to exceed \$1,000” for consistency with chapter 227 of title 18. The words “in the discretion of the court having jurisdiction thereof” are omitted as unnecessary.

PART B—UNITED STATES CAPITOL

CHAPTER 51—UNITED STATES CAPITOL BUILDINGS AND GROUNDS

| | |
|------------|----------------------------------------------------------------------|
| Sec. 5101. | Definition. |
| 5102. | Legal description and jurisdiction of United States Capitol Grounds. |
| 5103. | Restrictions on public use of United States Capitol Grounds. |
| 5104. | Unlawful activities. |
| 5105. | Assistance to authorities by Capitol employees. |
| 5106. | Suspension of prohibitions. |
| 5107. | Concerts on grounds. |
| 5108. | Audit of private organizations. |
| 5109. | Penalties. |

§ 5101. Definition

In this chapter, the term “Capitol Buildings” means the United States Capitol, the Senate and House Office Buildings and garages, the Capitol Power Plant, all buildings on the real property described under section 5102(c) (including the Administrative Building of the United States Botanic Garden)¹ all buildings on the real property described under section 5102(d), all subways and enclosed passages connecting two or more of those structures, and the real property underlying and enclosed by any of those structures.

(Pub. L. 107–217, Aug. 21, 2002, 116 Stat. 1174; Pub. L. 108–7, div. H, title I, §1016(a), Feb. 20, 2003, 117 Stat. 364; Pub. L. 110–161, div. H, title I, §1004(d)(2)(A)(i), Dec. 26, 2007, 121 Stat. 2233; Pub. L. 110–178, § 4(b)(1)(A), Jan. 7, 2008, 121 Stat. 2551; Pub. L. 111–145, § 6(d)(1), Mar. 4, 2010, 124 Stat. 54.)

HISTORICAL AND REVISION NOTES

| <i>Revised Section</i> | <i>Source (U.S. Code)</i> | <i>Source (Statutes at Large)</i> |
|------------------------|---------------------------|------------------------------------------------------------------------------------------------------|
| 5101 | 40:193m(1). | July 31, 1946, ch. 707, §16(a)(1), 60 Stat. 721; Pub. L. 90–108, §1(d), Oct. 20, 1967, 81 Stat. 277. |

AMENDMENTS

2010—Pub. L. 111–145 repealed Pub. L. 110–161, §1004(d)(2)(A)(i). See 2007 Amendment note below.

2008—Pub. L. 110–178 inserted “all buildings on the real property described under section 5102(d)” after “(including the Administrative Building of the United States Botanic Garden)”.

2007—Pub. L. 110–161, §1004(d)(2)(A)(i), which made an amendment identical to that made by Pub. L. 110–178, was repealed by Pub. L. 111–145. See Effective Date of 2010 Amendment note below.

¹ So in original. Probably should be followed by a comma.